G R. S. 59]

GENERAL AND REVENUE SECRETARIAT.

1900.–11

(Legislation)

File No. 8

Serial Nos. 1–7

Papers Filed.

Month December 1912

SUBJECT.

~~The~~ Amendment of provisions (h) & (k) of Sec. 60 of the Civil Procedure Code Bill.

PREVIOUS REFERENCES.	LATER REFERENCES.

S Ananda Rama Ayyar
9/12/12

G.R.S.11] 1910 — 11

GENERAL AND REVENUE SECRETARIAT

(Legis)

NOTES.

File No. 8 of 1910-11

FILE HEADING.

The Civil Procedure Code Regn re amendment of Sec: 60 of the Code Regn.

From

The Registrar Chief Court

No. 719 / 38 Dated 6/8/10 Received 9/8/10

Diary No.	Enclos.	Spare Copies	Serial No.
408	2		

BRIEF ABSTRACT OF LETTER.

Forwards for consideration a copy of letter No C-45 of 23/7/10 from the Deputy Commissioner Kolar re the amendment of the proviso(b) & (k) to sec: 60 of H. Civil Pro. Code Bill

NOTES AND ORDERS.

Gr'd. The amendment is proposed in the interests of the mining employés, including therein both the Coolly population and the salaried servants of the various mining Companies. It is claimed that the former may be brought, irrespective of

Notes—First sheet

GPB—30,000—3-4-07.

Serial No.

of the work they do under the best labourers. and the better given the benefit given to the salaried servants of Railway Companies or local authorities. This may perhaps be considered in connection with the report of the Select Committee on the C.P.C. Bill under preparation.

Put for orders.

30/8/10 SW

2. The Chief Court have not furnished their own opinion. If approved it will be called for. X.

27/8/10.

X. Else the case will be [redacted] on.

2nd C.J. There will not be time for it if we are to place this before the Select Committee. Please finish your note.

30/8/10

4

1. At present the privileges now asked for are enjoyed by servants of the Govt, of a Railway

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

Company and a local authority
the two latter bodies are ~~regulated~~
subject to restrictions imposed by
Special Enactments and are also
amenable ~~in~~ to a great Extent
to the ~~Supervision~~ Control of Govt
But a Mining Company as such,
Can not legally be differentiated from
any other Enterprise floated on a
joint Stock basis and if the
representations ~~of the~~ now made
are to be acceded to, there will be
no valid reason why the privilege should
not be Extended to the Employees of
other joint Stock Concerns.

Our law is the same as that
of the Govt of India and there
seems to be no good ground for
Changing it.

Subd to 2nd Cr.

31/8/10. Sd

(The draft report on the C.P.C. Bill
~~has been~~ is already in the hands of
the Members and two of them Messrs
Ranga Reddy & Narayana Rao) have

NOTE—Contn. sheet.

GPB—55,000—27-4-09

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already returned them with certain remarks and suggestions. These latter will be again have to be circulated to the other members which necessarily takes time. To obviate delay, a meeting of the Committee may be fixed for the 14th or 15th Sept and the whole thing finally settled. (P. C.s on Insolvency & Limn Bills meet on 9th, 10th & 12th Sept).

31/8/10. SD

2nd Q.

A meeting may be called for the 14th.

31/8/10 HM

Issue notice at once with the typed or manuscript Copies of the remarks of Messrs Mck L S. N. Roy

31/8/10 SD

Yes

Secy

Extension of time has been granted till end of Sept

GPB—50,000—25-2-07

G. S. 12]
General and Revenue Secretariat.

(K-24)

Key File No. 8 of 1910

Serial No.

Submitted with a draft memo.

3/8/10 1.9.10

Issue SH

1/9/10

6 The matter was considered by the Select Committee who considered it unnecessary to make any change in the law in favour of the Coolies ~~office~~ or servants working under the various mining Companies in the K.G. field.

7 The matter was discussed informally in a meeting of the Executive Council of the Nigerian Assembly last year and it was resolved that no change in the law was called for SH 8/10/10

NOTE—Contn. sheet

GPB—50,000 - 25-2-07

G. R, S. 12]
General and Revenue Secretariat.

File No. of 190 11

6

Serial No.

The matter having again been brought forward for consideration at the Representative Assembly by the Representative of the Mining Board, the member (Mr H. A. Pike) was informed that the Chief Court would be consulted and the matter considered after their views are known. Submitted with a draft to the Registrar of the Chief Court.

JKS (25) SAV (11)
25/10/11 26/10

31/10/11

2nd C

Draft appd

31/10/11

31/10/11

2/11/11

Note—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

2 No J 1430 dated 9/11/11
To the Registrar chief Court-
Requests him to obtain and forward the views of the judges of the chief Court- in the matter.

3 No 2115/166 dated 17/11/11
From the Registrar chief Court-
Informs that in the opinion of the judges of the chief Court- as the mining companies are not registered institutions and are not ~~having been~~ created by any statute or Regn, it may not be consistent with the policy of law to place them on the same footing as public offices, Railway companies &c
Submitted for orders.

(S S)
28/11/11

The Ch. Ct. are against the amendments proposed.

Read 29/11/11

29/11/11. S S

Let Dewan through Crs.

Keep till return from Delhi 30.11.11

I agree with the Chief Court. CPS 6/2/12

7/2/12 S S 8/2/12 S S 6/2/12

GPB—55,000—27-4-09

G. R. S. 12]
General and Revenue Secretariat.

File No. 8 of 1910-11

Serial No.

1. I think some relief should be given to the Mining Companies in the matter of the attachment of the wages earned by their employes (Coolies & artisans) even though it may involve an amendment of the existing law

KPN
10/2/12

15052/12
12.2.12

Dewan

I am inclined to agree with Mr Subramaniam - There is a practical grievance calling for redress but I have my doubts whether the Chief Court will uphold us

CBZ
10/2/12

SL
17/4/12

6/3/12

467/13.3.12

Agree with the Chief Court judge's opinion.

13/3/12

173/14.3.12

17. Dewan

CBZ
13/3/12

SL
14/3/12

NOTE— Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

Legis File No. 8 of 1910

Serial No.

18. ~~Hon Secretary~~

The objection of the chief Court would appear to extend only to the proposed amendments of cl. h and i of S. 60. C.P.C. which may be dropped. There is however a further proposal of the Bar Council to treat the mining employees drawing less than Rs 20 a month as labourers within the purview of cl K of the same section. The proposal would afford a measure of protection to the mining Companies and is not open to the same objection. The attention of the chief Court may be invited to the proposal and an expression of their opinion solicited

20/3/12

19. Put up draft.

Bm.
22. 3. 12.

20. Draft submitted
(58) 31/3/12 6/4/12

21. Draft may be
approved
6/4/12

22. Issue
6/4/12 6/4/12

NOTE—Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]

General and Revenue Secretariat. | Legis File No. 8 of 1911-12

Serial No.

4 No J/2445 dated 19/4/12
To The Registrar Chief Court-
Requests him to obtain and forward the opinion of the judges of the chief court to the proposal to treat the ~~mines~~ mining employees earning less than Rs20/- a month as labourers within the purview of Cl K of Sec: 60 of C.P.C.

5 No 4009/289 dated 16/4/12
From the Registrar Chief Court.
Informs that the chief court do not see any objection to the proposal and that they suggest that the amendment should preferably be embodied in an explanation.

Submitted
CB (58) SM(11)
25/4/12. 26/4/12

2/5/12

Office will please put up a draft amendment on the lines suggested by chief. See 1

Returned to Dewan through Crs.

3/5/12

NOTE—Contn. sheet.

GPIs—20,000—26-1-12

G. R. S. 12]

General and Revenue Secretariat.

Legis. File No. 8 of 1910-11

Serial No.

Subd. with a draft Bill and a statement of objects and reasons

(8)
6/5/12

(25)
6/5/12

(1) Please put up a neat copy as revised

a Do. Hble Res^y is also put up

2 (2) Mr D. K. Rama Rau who is now Munsiff on the K. G. J. told me a few days ago that the Mining Companies have ceased to feel any bother about this matter now and he attributes this to the new procedure adopted by him whereby ~~the Mining Companies and~~ the attaching Creditors are quickly made to understand what amount Exactly they could Expect to be to receive by attachment and that they have come to see the folly of ~~urging~~ urging their claims to the fullest extent as that will only have the effect of driving away the labourers off the field — a result which will be detrimental as much to the interests of the Companies as of the Creditor himself. I can not Explain — as I did not understand

NOTE.—Contn. sheet.

GPB—20,000—20-1-13

G. R. S. 12]

General and Revenue Secretariat. | File No. of 191 V - 1

Serial No.

The litigation is rather peculiar on the fields—a study on the spot would be necessary—

the details fully—the exact procedure adopted by him but he said that both the Companies and the Creditors are now quite satisfied.

2. Perhaps it will be of some advantage if the D.C. is consulted demi officially and asked to explain the present situation in consultation with the Mamlatdar and the representatives of the Mining Companies.

2. Submitted

16/5/12

17/5/12

17/5/12

3. I do not see the utility of such a proposal as is proposed. The Asstt Secy will please bring up personally.

20/5/12

NOTE.—Contn. sheet.

GPB—20,000—20-1-12

Serial No.

31 I continue to hold the opinion that this amendment is quite needless & in fact erroneous. The assumption is that wages accruing hereafter can be attached by a general warrant. It seems to fall clearly under exception l of S. 60 of the Code of Civil Procedure. We may keep this ~~open~~ ~~file~~ in suspense & see if it will be repealed.

32 Ask the Bh Cl ~~to~~ to consider this matter & say whether any such relief is necessary. The Mff may be asked to explain the actual procedure now followed in these matters

20/6/12

33 Intrp draft SR 20/6/12

NOTE.—Contn. sheet.

GPB—20,000—20-1-12

G. R. S. 12]

General and Revenue Secretariat.

Loafs File No. 8 of 1910-11

Serial No.	
34	Submitted with draft of letter to the Registrar dated to the Munsiff, K.G.F. Fields. 28-6-12
	35 Draft may be appd 25/6/12
	36 Draft appd by Hon'ble Council 27.6.12
	37 27/6 29/6/12
6	No B dated 1/7/12 to the Registrar chief court Mysore Requests that the matter may be placed before the Judges again for opinion as to whether the relief asked for may is necessary
7	No 4429 dated 9th Aug: 1912 From the Registrar chief court Mysore Informs that the proceedings

NOTE.—Contn. sheet.

G. R. S. 12]

General and Revenue Secretariat.

Legis File No. 8 of 1910-11

Serial No.

by the Munsiff of Kolar Gold Fields in the matter of attachment of salaries of the mines employees and states that the Judges of the chief court are of opinion that it would be better if an explanation were added to clause (k) of sec: 60 as recommended.

38 Submitted

(58) The explanation now proposed
28/8/12 to be added to clause k of sec: 60 differs slightly from the proposal contained in letter No. 4009/289 dated 16/4/12 (vide Sl 5 of this file).

(58)
28/8/12

39 The proposal under consideration is that Sec 60 (clause k) of the Civil Procedure Code may be amended so that the income of all Employees earning less than Rs

NOTE.—Contn. sheet.

GPB—20,000—20-1-12

Serial No.

the K. G. J., Earning less than ~~Rs~~ 25/- p.m. may be Exempted from attachment under Civil processes in the Same way as the wages of labourers and domestic Servants are Exempted.

The ~~Expecting~~ word "labourers" has been interpreted judicially not to include "artisans" or Skilled workmen and the effect of the amendment, if adopted, will be to place the "artisans" Earning less than ~~Rs~~ 25/- pm in the Same Category as "labourers" for the purposes of Sec 60 of the C.P.C.

4 0 The reason why a change in the law is asked for is that

NOTE—Contn. sheet.

GPB—65,000—17-6-42.

General and Revenue Secretariat.

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Serial No.

(1) that many of the so-called "artisans" are in reality "labourers"

(2) that it involves a disproportionate expenditure of time and money to establish such a plea in Courts

(3) that the mining Companies are put to a great deal of trouble and annoyance in having to keep accounts, produce their books in Court, ~~Suffer~~ &c.

4) The suggested amendment would no doubt remedy the inconveniences referred to but it would, also, be an

NOTE—Contn. sheet.

GPB—85,000—17-6-12.

Serial No.

Exception to the policy Embodied in clause (K) of Sec 60 of the Code. The present Munsiff has been working the Existing provisions of the law quite Smoothly without departing from the Spirit of the law and it is a matter for Consideration whether legislation need be undertaken just at present. Perhaps the representative of the K.G.F. may be interrogated on the point during the Ensuing Sittings of the D.R.A or better Still we may drop the matter until the Mining Board Complain again.

42—A Reference to the letter

NOTE—Contin. sheet.

GPB—65,000—17-6-12.

of the Sheriff that Ramachandra will show that he is not issuing general warrants and that he passes orders of attachment only after the pay or wages have been earned for the month. As far as possible the warrants are issued only at a definite period and the Companies have adjusted their accounts (by opening new Columns etc.) to the new requirements. Although the provisions of the Code are being worked very smoothly and it may be considered whether there is any need to change them now. It has

NOTE—Contn. sheet.

Serial No.

also to be remembered that if the Earnings are made liable to be Exempted from attachment, the Employes will have very little chance of raising a small loan Even on occasions of urgent necessity. This may not be quite a kindness to them though it is true that poor people had best do without debts.

43 The whole trouble seems to have arisen from the fact that till recently the Court was issuing warants when-ever the Creditors asked for them - a procedure which must necessarily

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

General and Revenue Secretariat. | File No. of 191

Serial No.

Entail a great deal of worry to the mining Companies in the way of keeping accounts. Now they know that the accounts of all debtor-Employees need be struck only on or about a Certain date in Each month. The reply of the mining Board to Mr Rama Rau shows that they have Cheerfully acquiesced in the new arrangement.

24/9/12 SB

934. (Sd) 449 think that this question may be taken up after the Durbar. We

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

Serial No.

shall then be able to know what the K G M B & Co have yet to say in the matter.

Dewan

30/9/12

3732
2-10-12

22/10/12

45 The members of the K G F did not bring up this matter this year at the D&A. This indicates that the grievance is not so great now as it was at one time. There is no objection to awaiting events some time longer - "wait & see"

7 Nov 12

8/11

46 File for the present

11/11/12

NOTE.—Contn. sheet.

GPB—20,000—20-1-12

No. 717/38 Gen. 2. Bangalore, 6th August 1910.

Sam,

The Registrar of the
Chief Court of Mysore.

To,

The Offg: Secretary to Govt.,
Genl & Rev. departments.

Sir,

I am directed to forward for the consideration of Government, copy of letter no: C. 45 dated 23rd ultimo with its enclosure, from the deputy Commissioner, Kolar district, re the amendment of the provisos (h) and (k) to section 60 of the new Code of Civil Procedure Bill.

I have the honor to be,
Sir,
Your most obedient Servant,

Registrar.

2

No: C. 45.
Encl: one.

Deputy Commissioner's office,
Kolar district.
Dated Kolar, 23rd July 1910.

From,

C. Srikanteswara Aiyar, Esqre., B.A., B.L.,
Deputy Commissioner, Kolar distt.

To,

M. A. Rajavartha Mudr. Esqre.,
Registrar, Chief Court of Mysore.
Bangalore.

Sir,

In forwarding herewith copy of a letter dated 15th April 1910 from the Secretary to the Kolar Gold Field Mining Board, suggesting that provisos (h) and (K) to Section 60 of the new code of Civil Procedure Bill might be amended to read as follows.

"(h) Allowances (being less than Salary) of any public officer or of any Servant of a ~~Rail~~ Railway Company or local authority

authority (or Mining Company) while absent from duty;

(k.) the wages of labourers and domestic Servants whether payable in money or in kind (provided that Mining Employees whose pay does not exceed Rs. 20/- per month shall be deemed to be labourers),"

I have the honor to state that the first suggestion is worthy of adoption, there being absolutely no reason to accord in this matter to the officers and Servants of Mining Companies a treatment different from that meted out to the employees of Public offices, Railway Companies and local authorities. The privilege enjoyed by the latter class in

respect

respect of the exemption from attachment of the whole or portions of their salary may well be extended to the employees of the Mining Companies and not only clause (h) but clause (i) also may be amended as follows: —

(h) Allowances (being less than salary) of any public officer or of any servant of a Railway Company or local authority or Mining Company while absent from duty;

(i.) the salary or allowances equal to salary of any such public officer or servant as is referred to in clause (h) while on duty, to the extent of

(i.) the whole of the salary where the salary does not exceed Rs. 20/- monthly;

(ii.) twenty rupees monthly where the salary exceeds Rs. 20/- and does not exceed Rs. 40/- monthly; and

(iii) One

(iii.) One moiety of the salary in any other case.

2. Regarding the second suggestion, I have to state that while the wages of labourers are exempt from attachment, the earnings of artisans are not and that though most of the petty employees or day labourers of the mining companies against whom warrants of attachment of money are generally issued by the Civil Courts are "labourers" of the kind referred to in proviso J. Section 266, Civil Procedure Code, they being persons who earn their daily bread by personal ~~no~~ manual labour in occupations which require little or no art, skill or previous education (vide I. L. R. 5. Bombay 132,) a circumstance but for which there would

not

not be the large floating population on the field, it is not always easy for the Courts when an application is made to them for attachment before judgment or in execution of decrees of moneys belonging to mining employees to find out, without holding an enquiry, whether the defendants are labourers or artisans, especially as the Gold Field contains a large floating population and as the mining workmen are described by the various marginally noted high sounding names which might lead one at the first blush to believe that all of them are artisans though many of them are not. Further, even though a labourer whose wages are wrongly attached files an objection petition and succeeds in

* Blacksmiths
Blacksmith-coalies
Fitters
Sawyers
Boiler Smiths.
Masons.
Drivers.
Assay boys. etc, etc.

in getting the attachment raised, he will have been out of pocket to some extent before attaining this end, for he will necessarily lose wages for the days he attends the Court to establish his claim. Moreover such an enquiry will have to be held in the case of each individual labourer whose wages are attached and such enquiries not only result in loss of money to the labourers but ~~as~~ involves a waste of public time. These labourers can give up Service in the mines without giving any notice to the mining authorities and they can be sent away by the latter without being given any notice. That in respect of such persons earning petty sums the mining authorities

Should

should be required to keep elaborate accounts, which they are required to do when warrants of attachment are served on them, inflicts an hardship upon them, and the steady increase during the past few years in the number of such warrants and the mass of profitless work it has entailed on the mines authorities has further aggravated it. If persons who get a fixed monthly salary of Rs. 20/- cannot be deprived of any portion of their earnings (proviso i clause i), this rule being based on the principle that a person requires not less than Rs. 20/- per mensem for keeping the body and soul of himself and the members of his family together, there is no reason for holding that labourers who get no monthly income but whose daily wages may amount to Rs. 20/- or less per mensem are not entitled to the same

privilege

privilege.

3. I would accordingly support the proposal of the Mining Board and suggest the amendment of proviso k as follows:—

"The wages of labourers and domestic servants whether payable in money or in kind provided that all mining employees who get no fixed salary and whose earnings do not exceed Rs. 20/- per month shall be deemed to be labourers."

Those whose salary does not exceed Rs. 20/- per mensem come in under proviso (i) while those who get no salary but wages not exceeding Rs. 20/- per mensem will come under the purview of clause (k).

4. I have the honor, under these circumstances, to request that the Chief Court may be moved to be so good as to approach the Government to make the amendments herein suggested to the Code of Civil Procedure Bill or on the lines indicated therein.

I have etc.,

Sdf. C. Srikanteswara Iyer

Dy: Commissioner,

Kolar District.

— 4 —

"Copy"

Registrar.

11

The Kolar Gold Field Mining
Board, Oorgaum,
Mysore State,
15th April 1910.

C. Srikanteswara Aiyar, Esqr, B.A., B.L.,
Deputy Commissioner, Kolar Distt.

Sir,

Acting under instructions from the Mining Board, I have the honor to draw your attention to the question of Attachments. The steady increase during the past few years in the number of warrants served on the mining companies for the attachment of monies due to their employees has led to an enquiry which has revealed the fact that many of the defendants are merely labourers, and that plaintiffs have obtained issue of warrants against them by falsely representing them to be artisans or skilled workmen. The population of

the

the field being to a large extent a floating one, it can readily be understood that it is difficult for the municipality to verify the truth, or otherwise, of such representations, and the consequence is that Sowcars and others finding that they can carry on this practice with a certain amount of impunity, readily advance loans to any coolie employee and safeguard themselves by securing repayment under the attachment process. We believe that the law already provides that the pay of any labourer or domestic servant shall not be liable to attachment, and with the object of preventing the abuse complained of, I have been instructed respectfully to ask whether Government would

be

be pleased favourably to consider the suggestion to include the mining companies' employees in the provisions of ~~sec~~ Section 60 (Attachment) of the new Code of Civil Procedure Bill. For instance, it is suggested that provisos (h) & (k) relating to exemptions from attachment might be amended to read as follows:—

(h.) Allowances (being less than salary) of any public officer or of any servant of a Railway Co., or local authority (or mining company) while absent from duty;

(k) the wages of labourers and domestic servants whether payable in money or in kind (provided

vided that mining employees whose pay does not exceed Rs. 20/- per month shall be deemed to be labourers).

The Board are of opinion that this would have the desired effect, and they trust that you will kindly see your way to give their suggestion your strongest support.

I have etc.,
Sd/- G. E. Payne.
Secretary.

"Copy"
Sd/- C. Srikanteswara Iyer.
Dy: Commr:, Kolar Distt.

"Copy"
[illegible]
Registrar.

not received

15

D.O Draft.

Dear ...

I herewith enclose copy of a short Bill to amend section 60 of the Civil Procedure Code, 1911. The necessity therefore has arsien by the peculiar situation on the Kolar Gold Fields in regard to the attachment by Civil Courts, in execution of decrees, of the income of the employees working on the mines, explained in detail in the statement of objects and reasons. The Durbar consider that a case has been made out to take action on the lines indicated by the mining companies and the Deputy Commissioner of Kolar. The Chief Court who were consulted in the matter see no objection to the proposed legislation.

The Bill will be laid before the Legislative Council in due course.

Yours &c.,

SA (Dewan.)

To

The Hon'ble Col. Sir Hugh Daly K.C.I.E., C.S.I.

not issued

16

A Bill to amend the Code of Civil Proce dure,1911.

Preamble. Whereas it is expedient to amend the Code of Civil Procedure,Regulation III of 1911; His Highness the Maharaja is pleased to enact as follows:-

Insertion of an additional Explanation after the existing Explanation to the proviso to Sub-section (1) of section 60 of the Code of Civil Procedure,1911.

The following shall be added as Explanation II at the end of the proviso to sub-section (1) of Section 60 of the Code of Civil Procedure, 1911, (the existing explanation being numbered as Explanation I) namely;-

"Explanation II.- A person employed on any of the mines in the Kolar Gold Fields whose pay does not exceed rupees twenty per mensem shall be deemed to be a labourer within the meaning of clause (k)."

Statement of Objects and Reasons. 17

The steady increase during the past ~~few~~ few years in the number of warrants served on the mining companies for the attachment, in execution of civil decrees, of moneys due to their employees has revealed the fact that in a large majority of instances these employees are in reality 'labourers' and that ~~plaintiffs~~ Creditors have obtained warrants of attachment of pay against such persons by representing them to be 'artisans' or skilled workmen. ~~The compliance~~ To Comply with these warrants would mean ~~throw~~ a considerable amount of additional work to the mining companies in the matter of maintaining accounts and producing them frequently in court. Besides, the population of the field being to a large extent a floating one, it is difficult for the court to verify the truth of allegations made by the plaintiffs. As the law already provides that the wages of any 'labourer' ~~or domestic servant~~ shall not be laible to attachment, it is considered desirable to extend this protection to workmen employed in the Kolar Gold Fields whose pay does not exceed rupees twenty per mensem by classing them under the head 'labourers'.

G.R.S. 26] 408/34

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

, *the* 19 .

Date of issue 9-11-11

Signed by [illegible]

Leg is **File No.** 8-10

Serial No. 2

No. J/1430 and 1

Legs 8-10.

To

The Registrar of the Chief Court of Mysore.
Bangalore

~~Adverting to his~~ letter No. 717/38 dated the 6th August 1910, forwarding copy of a letter from the Deputy Commissioner Kolar District, regarding ~~the~~ amendment of the provisos (h)(i) and (k) of clause (1) of Sec 60 of the New Code of Civil Procedure in favor of the Serishtadis and Cooks ~~working~~

over.

SUBJECT.

19
in the Klondyke gold field mining
area

with reference to the above
has the honor to request
him to be so good as to procure
obtain and forward to him
the views of the judges of
the Supreme Court, on the matter.
~~was again brought forward~~
~~for consideration by the Repre-~~
~~sentatives of the Mining Board~~
~~at the last Dawson Representatives~~
~~Meeting. The attention of the~~
~~Judges may be drawn to the views~~
~~of the Select Committee on the~~
Code of Civil Procedure Bill on
the point ~~The~~ A Copy of the
~~Select Committee~~ appd to consider the C. P. Bill
Report of the ~~above Committee~~
is ~~is~~ enclosed for ready reference
and return when done with.

List of enclosures,
1.

By order

Copied by
Examined by

GPB—20,000—23-9-10

No: 2115/166 Enclosure.

Chief Court of Mysore,

Bangalore, dated 17th November 1911.

174

From,

The Registrar of the
Chief Court of Mysore,
B a n g a l o r e .

To,

The Secretary to the Govt: of Mysore,
General and Revenue Departments.

Sir,

With reference to your No. J.1430/Legis. 8-10 dated the 9th Instant, asking for the views of the Judges of the Chief Court on the proposal of the Deputy Commissioner of Kolar to amend provisos (h), (i) and (k) of Clause (1) of Section 60 of the New Code of Civil Procedure, I am directed to state that the Mining Companies in question not being registered institutions and not having been created by any statute or Regulation, it may not be consistent with the policy of the law to place them on the same footing as Public Offices, Railway Companies and Local authorities.

The copy of the report of the Select Committee on the Civil Procedure Bill, received with your letter, is returned.

I have the honor to be,
Sir,
Your most obedient servant,

Registrar.

N.G.

87

G.R.S. 26]

File No.

Serial No,

*Diary No. of letter replied to*_____

No. J 2995 / Legis 8-10-4

General and Revenue Secretariat

(Legis)

, the *19* .

To

The Registrar, Chief Court
of Mysore

Date of issue 12.4.12

Signed by for S. Hiriyannaiya.

Sir

With reference to your letter No. 2113/166 dated 12/11/11 forwarding the opinion of the Judges of the chief court regarding the amendment of the provisos (h), (i) and (k) of clause (i) of Sec: 60 of the Civil Pro. code, 1911 in favour of the servants and ryots in the Kodagu

over.

SUBJECT.

22

~~Gold Mines Mining Act~~

I am directed to state ~~in the opinion of the Govt~~ observe that the objection of the Chief Court would appear to extend only to the proposed amendments of cl (h) and (i) of sec. 60 C.P.C ~~which may therefore be dropped~~. The further proposal of the Govt. comm. Kolar Dt. ~~however further proposes~~ to treat the mining employees ~~drawing~~ Earning less than Rs20/- a month as "labourers within the purview of cl (K) of the same section. ~~This proposed~~ would seem to afford a measure of protection to the mining companies and ~~is said to open~~ does not appear to be open to the same objection to which the other amendments proposed are subject. I am therefore to ~~invite your the attention of the~~ request you to invite the attention of the judges of the Chief Court to this

(in these is repeal of (h) & (i))

List of enclosures,

Copied by

Examined by

GPB—10,000—28-2-11.

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

(to amend para k) 23
proposal and to favour
Government with an
expression of their opinion
[redacted] thereon

I am &c

[signature]
for Secretary to Govt

(58), SR(1)
30/3/12 — 6/4/12

[signature]
11/4/12

GPB—10,000—22-2-11

Legis 8 of 1910-11
Serials

J 2995

No: 4009/289

Chief Court of Mysore,

Bangalore, 16th April 1912.

From

The Registrar of the
Chief Court of Mysore.

To

The Secretary to the
Government of Mysore,
General and Revenue Departments.

S i r ,

With reference to your letter No: J 2995/Legis 8-10-4 dated the 12th instant, I am directed to state that the Chief Court do not see any objection to the proposal to amend clause (k) of section 60 of the Code of Civil Procedure. It is suggested that the amendment should preferably be embodied in an explanation. 'A person employed on the Kolar Gold Fields Mines whose pay does not exceed Rs 20/- per mensem shall be deemed to be a labourer within the meaning of clause (k)'.

I have the honor to be,

S i r ,

Your most obedient servant,

REGISTRAR.

H.C.C.

G.R.S. 261 8/6 925

Legis File No. 8-12
Serial No. 6

Diary No. of letter replied to.

No. J 3/Legis 8-10 — 6

General and Revenue Secretariat
(Legis)
, *the* 19 .

Date of issue 1-7-12.

Signed by M S Hirigamuwa

To

The Registrar, Supreme Court
of Mysore, Bangalore

Sir.

Adverting to your letter
No. 1009/28 dated the 6th April
1912. ~~regarding~~ the amendment
of clause (K) of section 60 of the
Code of Civil Procedure regarding
the exemption from attachment
in execution of decree of Civil
Courts, of earnings less than
Rs 20 per mensem of a person ~~but~~ employed
in the Kolar Gold Fields, I am

over.

SUBJECT.

26

directs to state that it is understood that the Concession has been prayed for on the assumption that the wages falling due can be attached by a general warrant issued beforehand. As it appears that such wages could not properly be made exception (l) to the provisions of this section, I am to request that the matter may be placed before the Judges for consideration and the Government informed as to whether any such relief as is prayed for is required.

2 The Secretary of State will observe that the Kly. (Mysore & Kamataka) may also be invited to explain in detail the procedure followed by him now in the matter.

List of enclosures,

27/6/12

Copied by [illegible] 29/6/12

Examined by [illegible]

ND—25 SR(II) 28/6/12

GPB—20,000—25-9-10

No: 566/36 Enclosure

Bangalore, 2nd August 1912.

BOARD No. 1429
TO 12 20 1 4
SECTION Legis
FILE No. 10 8-10
SERIAL No. 7

From.

The Registrar of
Chief Court of Mysore.

To. The Secretary to Government,
General and Revenue Department.

Sir,

Adverting to your letter No. J 3 Legis: 8. 10, dated the 1st July 1912, in the matter of the proposed amendment of clause (k) of Section 60 of the Code of Civil Procedure, I am directed to state that it was not assumed by this Court that the wages of persons employed in the Kolar Gold Fields Mines could be attached by a general warrant issued beforehand. Such an attachment of an anticipatory character is illegal (Vide 14 I.A. 40, I.L.R. 27 Cal. 38, 28 Cal. 483 and 30 All. 246).

2. The procedure followed by the Munsiff of Kolar Gold Fields in the matter is explained in his letter No: 83 dated the 24th July

July 1912 – sent in original. It will be seen therefrom that the Munsiff understands the law on the point ~~clearly~~ correctly. He issues warrants of attachment only after the wages due to the employees have actually become due, although applications for attachment are made before the due dates. The relief that was intended to be given to these persons was that the debts due to them, which under the law as it now stands, could be attached after they have accrued due should be exempted from attachment in cases where the wages of the judgment-debtors are less than Rs 20/- a month, the reason for such exemption being that it will be on the whole to the advantage of the judgment-debtors, their employers and in some cases even of the judgment-creditors. Clause (h) of section 60 does not therefore meet the case.

3. I am to add that the judges are of opinion that it would be better if an explanation were added to clause (k)

of

of section 60 as follows:— "For the purposes of this clause, persons employed in the Kolar Gold Fields whose total monthly income from all sources does not exceed Rs 20/- per month shall be deemed to be labourers." This would ensure that an employee who possibly was earning money apart from his mining wages would not be exempt unless his whole income was under Rs 20/-.

I have the honor to be,
Sir,
your most obedient Servant,

— Rajah Trichy
Registrar.

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L. C. No. 153 7/26.7.1912

19/2-13.

From D. K. Rama Rao Esqr. B.A, B.L.

Munsiff, Kolar Gold Fields

To J. Paramasiva Iyer Esqr B.A.

District Judge

Bangalore Division

Dated 24th July 1912

Despatched — do —

Received

General No. 83.

No.

Enclosure No. one file

Sir,

With reference to para 2 of the letter no. J 3 - Legis. 8 - 10 dated 19th instant from the Secretary to the Government to the Registrar of the Chief Court, - copy of which was forwarded to me with your letter no. 108/74 dated 10th July 1912 with directions to furnish the information called for, I have the honor to state as follows

GDS-1.50,000-20-3-11

DISTRICT AND SESSIONS COURT
25 JUL. 1912
CRO
BANGALORE.

Reference submitted:

Forward in original to the Chief-Court.

D. J.

follows.—

2. As regards clauses K and L of Sections 60 Civil Procedure Code I beg to state at the outset that the monies are attached as debts which have accrued due in favour of artisans, that seperate execution applications for attachment are filed in respect of each month's earnings, and that no general warrants are issued beforehand attaching the earnings of all future months.

3. As to clause K of section 60, since most of the Mining employments involve some degree of technical knowledge or skill, it is rather difficult to say who is an artisan and who a labourer, so that it is a question of fact whether in any particular instance the case falls or not under the exception. But so far no such pleas have been put forward nor the cases contested on this ground, especially for reasons mentioned in para 15, and precautions

are

are being taken to avoid the attachments in cases falling on the bordering lines.

4. Regarding clause X section 60, I beg to state that the wages are now ordered to be attached only after the close of the month during which they were earned, and moreover so long as they are calculated by the companies for the number of days of actual work, deducted for days of absence, and fully paid at once to an Employee ~~or~~ on any date during the month when he choses to stay away, or is discharged by the Company, the wages of each day become debts perfected at the close of that day, the arrangement for monthly payments resorted to for the sake of convenience, not affecting the question (vide Woodroffe and Ameer Ali on C.P.C. pages 285, 286 and 293)

5. These earnings are paid to the employees

employees generally on the 2nd Saturday in every month, called the Pay-day, except in cases when the employee ceases to work or is discharged as stated above, when he gets his pay at once. To facilitate the preparation of Companies' accounts in time after deducting the attached monies, the understanding between the Court and the Mining Board after a good deal of correspondence in 1904, has been that the warrants of attachments have to be despatched to the companies before Thursday preceding the pay-day, always excepting emergent warrants in the ends of justice which may be sent at any time. The attached monies are received from the Companies about the 20th of the month, so that fresh Execution applications can be admitted only after that date, since

the

the claims of the creditors to the amounts received have to be disposed of after hearing the judgment-debtor's objections if any, and ordering rateable distributions in several cases.

6. Before I took charge of this court in September last, the procedure regarding the attachments was thus:-

7. Firstly, as to the time of filing execution applications for attachments, passing the orders for attachments, and the issuing of the warrants:-

8. Applications for attachments of any month's earnings used to be filed on any date during that month or the month previous; orders for attachment were generally passed before the close of the month, excepting on applications whose notice to judgment debtors

appeared

appeared and contested the Execution proceedings.

The warrants used to be prepared and signed only after the close of the month except in cases wherein owing to heavy work in office, the warrants could not be sent in the same month but had to be put off till next month.

Example:- Application for attachment of the earnings of July, filed on 10th July or 7th June; Order for attachment on 26th July; warrants signed on 3rd August generally or 3rd September in case of heavy work.

9 The present procedure is thus:-

After attached monies of previous month are received from the companies gener-ly about the 20th, most of the applications for attachment are filed between the 20th and the close of the month the earnings

of

of which are sought to be attached, and the rest after the month. After the close of the month, orders for attachment are passed and all the warrants prepared and signed leaving no arrears.

Example:- Applications for attachment of July earnings filed on 22nd July or 2nd August; Attachment order 3rd August; warrants signed 4th August.

10. It will thus be seen that even now most of the applications are filed before the close of the month. Much as I wish to avoid this to be technically correct, I could not do so, for every month the number of Execution applications is large and the Pay-day (2nd Saturday) falls very early at times, so that all the warrants have to be prepared before the 4th

37

4th or 5th of the month to be despached in time, before Thursday. Besides sufficient time is required for checking the Execution applications ~~applications~~, getting amendments made, and issuing notices if necessary to judgment-debtors, before attachments are ordered. If applications are refused before the close of the month on any technical ground, they are all to be sure to be filed on the 1st or 2nd of the month, when the Court, not being justified in refusing relief to judgment-creditors in realizing the fruits of their decrees, when judgment-debtors money is still available, would find considerable inconvenience in checking the applications passing orders and issuing warrants all in 3 or 4 days

11 I do not however think that the

the mere filing of the Execution applications before the close of the month materially affects the question for two reasons:—

For (a) the actual passing of the judicial order for attachment, and the signing of the warrants, are done only after the close of the month.

(b) As explained in para 4 above, the earnings are by days and the attachments so far as the major portion of the month's earnings till the date of the filing of the applications, are at any rate valid.

12. The next matter to be considered is the amount of money attached in the case of each debtor which is more important from a practical point of view — ~~though~~ Though some relief was always being given by the Court in this respect, there was no principle

or

or system for guidence. In this connection I beg to invite your kind attention to the copy of my letter, to the Mining Board, marked A and appended hereto which fully sets forth the condition of things that prevailed before I assumed charge

13. Having regard to the fact that the only means at the disposal of the judgment-debtors in this place both for meeting their debts and for maintaining themselves, is their Salary, and the consequent necessity for allowing a reasonable portion of their earnings for their maintenance, I thought that the Court might very well utalize the inherent power vested in it by section 151 Civil Procedure Code, and on the analogy of principle in section 61, and clause b of Section 60 Civil Procedure Code, relieve the judgment-debtors

40

debtors by attaching only a portion of their pay and leaving a fair margin for their expenses, excepting in cases where the debtor all^N once ceases to work in the Mines and tries to leave the jurisdiction, taking away all his wages to defraud the creditors (vide also 10 Suth. W. R. page 447.)

14. But though the Court may probably be thus supported by the aforesaid provisions of Law, I have had no occasion to pass judicial orders on that basis, for both the creditors and the debtors have so far been satisfied with the procedure adopted in the Court at present, — in that the judgment-debtor so long as he is honest can expect relief from the Court, and the creditor can be sure of getting a fair proportion of the income towards his

his debt. It is not to the creditors interest that the debtor should be allowed to starve, which will make matters worse by compelling the judgment debtor to leave the jurisdiction for want of work.

15. According to the present procedure, about the 28th or 29th of each month, Seperate list for each mining Company is prepared and sent noting the names of its employes attachments of whose salary are sought, and such lists are returned by the companies in 2 or 3 days with the necessary entries duly made, showing the amounts available in each case. Then attachments are ordered so as to ensure a portion of the pay for the expences of the debtor, even after giving deductions for the rent, fuel and other Sundry charges due

due to the companies by the employees.

Example:-

Net income	Attached
Rs 100/-	Rs 35/-
Rs 70/-	Rs 36/-
Rs 25/-	Rs 11/-
Rs 14/-	Rs 5/-
Rs 8/-	Nil

16. The enclosed papers marked B, C, and D are samples of lists sent to and returned by the Mining Companies.

17. In the absence of express legislation on the point, I find that this System has been working fairly well without hardship on either the debtor or the creditor.

18. I have only to add that this reference does not deal with the other local questions such as high rate of interest, the large loans to contractors whose capitals in most cases consist of Sowcar's money borrowed,

borrowed. As a fact, relief is being given even in these cases by advice to parties, and I hope gradually to make, if possible, a better arrangement in this respect also, consistent with the conflicting interests of the Sowcars, the floating population, the troubles of the debtors who are driven by various causes to have recourse to loans.

I have the honor to be
Sir,
Your most obedient Servant
D Ramada
Manager
Kolar Gold Fields

A

1911-12

44

From

D. K. Rama Rao Esqr. B.A, B.L

Munsiff

Kolar Gold Fields

To

The Secretary

to the Mining Board

Kolar Gold Fields

Original.

Dated 21st November 1911

No. 340/one enclosure.

Sir,

I have the honor to invite your attention to the inconvenience due to want of information regarding the precise amount earned by the various employees under the mining Companies against whom warrants of

of attachment of debts are taken out by the judgment creditors.

In most of the cases, though not all, both the court and the creditors may be willing to show some concession to the debtors and permit portions of the incomes for their maintenance, while providing, at the same time, for the discharge of their debts by attaching only the balance.

The portions that may be thus exempted need not be the same in all cases, but the proportion of pay remitted in each case depends upon the particular circumstances peculiar to it.

When a judgment-creditor applies for attachment, he is directed to enquire about the monthly earnings of the debtor and state it in his petition. The amount that he puts down in his petition (as often happens in many cases) will be far in

in excess of the amount actually earned. The mistake is made at times purposely to get more money attached, at other times in ignorance and without enquiry which, however, does not give correct information to the Decree-holder. When the money is attached the judgment-debtor hurries to the court and prays for the release of a portion of his pay, but it will take time to make necessary enquires and grant relief after hearing both the parties.

To illustrate this position — Supposing a debtor earns 70 Rs a month, the court might order attachment of 40 Rs instead of the whole amount of Rs 70/-. But seeing this, the creditor exaggerates the income and puts it down as 120 Rs. The court relying on the creditor's statement would order attachment of Rs 65/- or 70 leaving only

only 5 Rs or nothing to the debtor. The debtor would rush to court with his application on or after the pay day, but as the court would not be in possession of any definite information, the debtor would be directed to appear on the next hearing day, when the creditor also is expected. Even on that day, as each party asserts that what he says is true, without corroborating his allegations it would be difficult to grant relief to the debtor. If any amount is released at all, it will be during the last week of the month, till which time the debtor would be put to great hardship.

The court is constantly troubled with numerous applications of this kind, and I dare say that this inconvience is felt also by the companies. Hon, you will please observe that the employees have to absent themselves.

themselves from work to attend court and the worry consequent on the want of funds to maintain themselves, must necessarily make their work suffer. In many instances, the Decree-holders cannot be found fault with as they have no source from which the exact information required could be obtained. Moreover, the very debtors often give exaggerated accounts of their own earnings to the creditors in order to borrow more money.

To remedy this, I would propose sending a list of the names in the form enclosed herewith, to each company during the last week of the previous month, if the pay day happens to fall early in the month, or in the first week in the month if the pay day falls later, giving the names of such of the employees against whom ~~~

applications

applications have been filed. All that the companies have to do is to fill up the particulars column of the list left blank and return the same without delay, noting the actual amounts earned if the accounts are ready, or if the accounts are not ready, noting only the daily wages and the number of days during which the employee was absent, so far as the same can be ascertained easily from Daily Roll Registers. The court could be guided by these lists when ordering attachments.

No doubt a few applications may come after these lists are sent by this office, but they will not be many and such of the very few debtors as are aggrieved might move the court later on if necessary. To facilitate grant of relief in their cases as well as others, a column

may

may be added in future, in your lists of attached money showing the actual amount earned by each person. 50

Before requesting you to adopt this procedure, I may anticipate a difficulty. The debtors may come to know about the enquiry by court and recover money from the companies or press them for payment before the due date. But I do not think this will happen if the office reference is kept confidential and no payments are made before the pay day, ie 2nd Saturday in the month.

Further, I have to state that this reference does not apply to the contractors, whose amounts I understand, cannot be ascertained before the measurements are taken and accounts are prepared for the months, and who may, moreover, trouble the companies for immediate payments and may not be so much subject to company's control as the employees.

employees. For the present, their cases will stand as hitherto.

I have to add that, while the number of names of employes in this office lists may be large for 1 or 2 months at the commencement it must get reduced gradually, for, when the court is informed of a debtor's wages, the figure and the date will be noted in the court registers and further reference regarding the same person will not be made unless it is alleged that the rate of his pay is changed.

If the Board are agreeable to this proposal I shall thank you to let me know their views and suggestions.

I have the honor to be
Sir,
your most obedient Servant
(Signed) D. K. Rama Rao
Munsiff
Kolar Gold Fields

(cover)

Enclosure
24/7/12

Lists showing the amounts due to the debtors mentioned in Column 3 for the month of —— 1912 by the —— Gold Mining Company Limited.

Serial No.	Execution Number	Names of judgment debtor	Occupation of the judgment debtor	Amounts actually due to the persons in Column 3 if accounts are ready	If accounts are not ready, the pay or daily wages which the persons named in No. of days of absence in the month.	Deductions if any	Remarks.

Manager

25

53

N.

THE KOLAR GOLD FIELD MINING BOARD,
OORGAUM,
MYSORE STATE,
S. INDIA,
29th December 1911

The Munsiff,
Kolar Gold Field,
Robertsonpet.

Sir,

ATTACHMENTS.

With reference to your letter No:340, dated 21st November 1911, I have the honor to inform you that the Mining Board agree to your proposal with regard to submitting to each Company a list of employees against whom applications for attachment have been filed, in order that the pay due to each may be entered therein for your guidance, and I am to say that the Mining Superintendents will be only too pleased to assist you in any way they can in your laudable desire to afford relief to the Companies' employees in this connection.

It is hoped that you will be able to suggest some means of alleviating the position of contractors, the attachment of whose earnings usually has the effect of rendering them unable to settle with their coolies who suffer accordingly.

I have the honor to be,
Sir,
Your most obedient servant,

Secretary.

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THE KOLAR GOLD FIELD MINING BOARD,
OORGAUM,
MYSORE STATE,
S. INDIA,
23rd November 1911

V. No. 241 24/11/11

D. K. Rama Rao Esq., B.A., B.L.,
Munsiff,
Kolar Gold Field.

Sir,

ATTACHMENTS.

I have the honor to acknowledge, with thanks, the receipt of your letter No.340, dated 21st November, and to inform you that it will be placed before the Mining Board at their Monthly Meeting on Thursday next, 30th instant, after which I will communicate to you their views on the subject-matter thereof.

I have the honor to be,
Sir,
Your most obedient servant,

Secretary.

24 11 11

P.J.

THE MYSORE GOLD MINING CO. LD. KOLAR GOLD FIELD

B

Marikuppam, 55
MYSORE STATE.
INDIA.
1st: March 1912

D. K. Rama Rao, Esq.,
Munsiff,
Kolar Gold Fields,
ROBERTSONPET, P.O.

Sir,

In reference to your No.572/2, dated the 26th: ultimo, we have the honor to return the list enclosed therein with the particulars asked for.

I have the honor to be,
Sir,
Your most obedient servant,

A. Lyford
SUPERINTENDENT.

List showing the amounts due to the debtors mentioned in Column 3 below for the 53

month of February 1912 by the Mysore Gold Mining Company Limited.

Serial No.	Execution Number	Name of the Judgment-debtor	Occupation of the Judgment debtor	Amount actually due to the person named in Column 3 if accounts are ready	If accounts are not ready their pay or daily wages due to the persons & the no: of days of absence in the month			Remarks
					Rate of pay.	Days absent.	Approximate Deductions. Rs.	
1.	Ep 2018/11-12	1st. Sundaram, known in the Company as Thomas Sundaram	Spare Driver — Taylor's Shaft.		-/10/4	4	5/-	
2		2 B. Malden	Rope Changer watchman, Gilbert Shaft		1/5/	2	7/-	
3	2031/-	3rd. Arokyasamy	Spare Driver, Engineering Dept.		-/10/4	-	5/-	
4	2035/-	B. Dasappa	Timber mais boy, Ticket-no 931. Ribblesdale Shaft		1/2/-	8	4/-	
5	1993/-	A. F. Halage	Underground workman, Roll Call, Mysore Mines office		Rs. 60/-	-	3/-	
6	1978/-	J. C. Mac Cash.	Mill Miner		" 195/-	-	20/-	
7	1968/-	Vicapury	Blacksmith mais boy		1/10/0	3	4/-	
8	1962/-	Basikam Seshaiya, now known as Venkatapaul	Stuff Miner, Ribblesdale Shaft		-/12/-	3	4/-	
9	1960/-	Tea Boy Arokyasamy	Underground Donkey Pump Driver 9th Shaft		-/9/-	5	2/-	
					Rs. 15/-		1/-	

11.	2017/-	2nd G. H Smith	In charge of the Underground Gang Fitting	30-15-0	✓	1/7/-	4	5/-
12	1973/-	Madras Perumal	Trammer, Rope Shaft.	10-0	✓	-/8/-	5	2/-
13	1972/-	Muni Samy	Crokers Winding Driver	15-11-8	✓	-/10/4	-	3/-
14	1971/-	Michael	winding Driver No. 20 Shaft	19-12-0	✓	-/13/-	1	3/-
15	1970/-	Kotte	Donkey Driver, Ribblesdale Shaft	13-14-0	✓	-/10/-	2	3/-
	1969/-	Arest Chinnasamy	Rewitter, Engineering Department	16-4-0	✓	-/11/-	1	3/-
	1966/-	Br. Chinnasamy	Fire appliances 9th Shaft	21-15-0	✓	1/3/-	8	3/-
	1965/-	2nd Cudiyatham Perumal alias G. Perumal	Timber Inspector, 9th Shaft	13-4-0	✓	-/12/-	6	4/-
		Karpaiah Thayi Guard Velore Muni Samy	Spare Driver	6-11-8	✓	-/10/4	-	2/-
20	1963/-	Gotakal Muni Samy alias Guddak	Winding Driver, 9th Shaft, Engineering Dept		✓	Not known.		--
21	1961/-	J. watson	Fire Pump, Petrol, 9th Shaft.	31-0	✓	Rs. 35/-	--	4/-
22	2000/-	1st Chinnadi	Pump Inspector, 9th Shaft,	22-5-0	✓	-/15/-	2	3/-
23	1939/-	B. Melden.	Rope changer, 9th Shaft.	28-7-0	✓	1/5/-	2	7/-
24	2046/-	S. R. Sivagnanamoorthy	Interpreter	50-0-0	✓	Rs. 50/-	--	---
25	1997/-	J. Ruben	Shift miner, Ribblesdale Shaft		✓	-/12/-	10	2/-

List showing the amounts due to the debtors mentioned in Column 3 below for the month of February 1912 by the Boriguam Gold Mining Company Limited.

Serial No.	Execution number	Name of Judgt debtor	Occupation of Judgt debtor.		Amount actually due to the person named in Col 3 if accounts are ready	If accounts are not ready their pay or daily wages due to the person and the No. of days of labour in the month	Remarks
1	2026/11-12.	A. Chinnasamy.	Cyanide Filter	✓	Rs 25/—	Rs 1.0.0 p.o	Sunday
~~2~~	~~1993/—~~	~~Lodd no Balaraish.~~					
2	2027/—	J. Jones.	Loose miner,	✓	Rs 34/6	Rs 1.6.0 p.d.	✓ 4
3	1981/—	1 Veriagiperumal Thangavelu	Quage Road Timber receiving under miner Pencothie.	✓	Rs 25/—	. 1.0 .	✓ 4
4	"	2 Chinnasami alias Kandasami Chinnanjan	Quage Road Timber receiving under miner Pencothie	✓	Rs 25/—	. 1.0.0 .	✓ 4
5	"	3 Ponnusamy alias Vellore Pachaiasamy	Quage Road Timber receiving, under miner Pencothie	✓	Rs 21/14	. 0.14.0 .	✓ 4
6	2014/—	Kannadasan galam Sanjeevi known as Veeran Co as Narayandi	Blacksmith, Blacksmiths Shop.	✓	Rs 17/3	. 0.11.0 .	✓ 4
7	2013/—	Gadiyatham Govinda Razalu Govinda Razu	—"	✓	Rs 18/12	. 0.12.0 .	✓ 4

8	1992/-	Sanyasi Subbaru	Machine Handleman working under Miners Byanki	✓	Rs 20/-	1.0.0	✓	
9	1990/-	3rd G. Ramadroothy	Survey Draughtsman	✓	Rs 37/8	1.8.0	✓	4
10	1989/-	2nd Viranj Curam Dhanisamy	Machine Second Maistry under Miner Byanki Oakley Shaft	✓	Rs 32/13	1.5-0	✓	4
11	11	3rd Viranj Curam Dhanisamy	Cotherman Machine Maistry under Miner Byanki Oakley Shaft	✓	Rs 26/5	0.13 0	✓	4
12	1987/-	1 Veri Perumal alias Perumal	Machine Maistry under Miners Byanki Oakley Shaft Ticket-No 3987.	✓	Rs 40/10	1.10.0	✓	4
13	— 11	2 Chinna Perumal alias Viranj Curam Perumal	—— do —— Ticket No 977	✓	Rs 39/1	1.9.0	✓	4
14	1959/-	1st Pounasamy	Surface machine Filler working under Maistry Ticket-No 776. Bullens Shaft	✓	Rs 39/1	1-9.0	✓	4
15	1917/-	Govindasamy	Winding driver, Cyanide Depart	✓	Rs 15/10	0.10.0	✓	4
16	1928/-	Babu Rao	Machine Filler		Rs 35/15	1.7.0	✓	4
17	2047/-	Chokkalinga alias Chavuri	Tumbler Ceylon S.					
18	2065/-	Pounasamy alias Madras Pounasamy	Winding Driver Seekin No 3 @ underground Ceylon Shaft			Deceased		
19	2073/-	G. T. Bryan.	Pipe Filler @ underground		Rs 62/8	1.2.8.0	✓	4
20	2078/-	Saregood	Turner		Rs 50/-	x 2.0.0	✓	4
21	2093/-	C. J Rose	Tumbler driver		Rs 106/4	4.4.0	✓	4

C. R. Kennedy
Gen Superintendent

Examined
Inspector of Mines
Kolar Gold Fields
27/9/17

List showing the amounts due to the debtors mentioned in Columns 3 below for the month of January 1912 by the Balaghat Gold Mining Co. Ltd.

Serial No.	Execution No.	Name of Judgt-debtor	Occupation of Judgt-debtor	Amount actual due to the person named in col. 3 if accounts are ready	If accounts are not ready then pay of daily wages to the person and the no. of days of absence in the month	Remarks.
1	1665/11-12	Irmadar Muniappa alias Venkatasamy	Carpenter	(Not known)		
2	1789/-	Kothoor Muniappa alias Muniappa (Lakshmanasamy)	Line Carpenter		Rs-/14/- p day 5 days absent	Probably the same man-
3	1784/-	A Muniswamy Naidu	writer		Rs 50/- per mensem.	
4	1752/-	D Monte	Mill-Filler		Rs 1/2/- per day 1 day absent	33-12-0
5	1763/-	Angalan Muniappa alias Munigadu	underground timber mazdoor		Rs 1/- per day 1 " "	30-0-0
6	1297/-	Ponnasamy	Electric Driver		Rs 0/11/3 per day 3 " "	19-11-0

Defendant
Mun Sff

Original -

1910-11

FILE No. 9 OF 1910-11D

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

GENERAL AND REVENUE SECRETARIAT.

JUDICIAL AND LEGISLATIVE (LEGISLATION).

JULY 1911.

Small Cause Courts Regulation.

"A" Collection. Serial Nos. 1–4.

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Serial No. of File	Number and date of letter and contents	Reference	Page in Part A
1	Letter No. J. 3784, dated the 7th June 1909, to the Registrar of the Chief Court of Mysore. Requests him to obtain and forward to Government the opinion of the Judges of the Chief Court on the Bill to consolidate and amend the law relating to the Courts of Small Causes, published with Notification No. 44—L. C., dated the 6th October 1902.	(1) Legislative File No. 14 of 1903. (2) Courts File No. 88 of 1903. Part B., Serials 13 and 14 of this File.	1—6
2	From the Registrar of the Chief Court of Mysore, No. 6670—361, dated the 11th June 1909. States that the opinion of the Chief Court will be forwarded as soon as Mr. Ismay returns from leave.		6
3	From the same, No. 396—22, dated the 23rd July 1907. Forwards the opinion of the Judges.		6—7
4	To the same, No. J. 614, dated 25th August 1909. Forwards for consideration of the Judges of the Chief Court the suggestions made for incorporation into the Bill of the provisions relating to trial by Composite Courts and non-suiting based on the provisions of the English County Courts Act and requests him to favor Government with the opinion of the Judges thereon.		7—8
5	From the same, No. 1015—52, dated 28th August 1909. Forwards the opinion of the Judges on the above suggestions.		8

Serial No. of File	Number and date of letters and contents	Reference	Page in Part
6	D. O. No. 687, dated the 15th February 1910, to the Resident in Mysore. States that it is proposed to introduce into the Bill provisions relating to non-suiting and trial by Composite Courts on the lines of the provisions in the County Courts Act, England.		9
7	D. O. letter No. 1382, dated the 5th March 1910, from Major W. G. Grey, First Assistant Resident. States that the experiment is worth trial and suggests that special mention of this may be made in the statement of objects and reasons.		9
8	Letter No. Pol. 619, dated the 5th January 1911, from the Secretary to Government, General and Revenue Departments, to the First Assistant Resident. Forwards a copy of the Bill as finally passed by the Legislative Council and requests that the sanction of the Government of India may be obtained for its being passed as law.		9—13
9	Letter No. 1295, dated the 28th February 1911, from the same States that the Governor-General in Council accords his assent to the Bill with the usual reservation of power.		13
10	D. O. letter No. 1296, dated the 28th February 1911, from the same. Makes certain observations regarding the provisions made as to trial by Composite Courts.		13
11	Order No. J. 3469, dated the 20th June 1911, to the Compiler, *Mysore Gazette*. Directs the publication of the Bill as Regulation VIII of 1911.		13—16
12	To the First Assistant Resident in Mysore, No. Pol. 11, dated the 4th July 1911. Forwarded copies of the same.		16

1909-10.

GENERAL AND REVENUE SECRETARIAT.

(LEGISLATION.)

NOTES.

FILE No. 9 OF 1909-10.

Small Cause Courts Regulation.

MEMO.

The characteristic features of the Draft Regulation are (1) its simplicity and (2) clearness. In these respects it is an improvement both on the Act of 1865 and the later British Indian Act of 1887. In the latter Act, suits cognizable by a Small Cause Court have to be ascertained by a rather laborious process of exclusion. In the Draft Regulation, on the other hand, we can say at once by a reference to the schedule what are all the suits falling within the jurisdiction of a Small Cause Court.

Another great convenience is in the power proposed to be vested in the Government to alter or add to the schedule from time to time in the light of actual experience. The cumbrous and not always easily available process of moving the legislature is avoided.

There are however two or three points that deserve some remarks.

(1) *Jurisdiction.*—Power is propose to be given to Government to invest a Small Cause Court with jurisdiction up to Rs. 500. This, I submit, is rather too high a figure for Mysore. However appropriate it may be in British India, it is not so in Mysore as the average value of litigation here is considerably less than in British India. I do not believe that at any time after annexation any court in the State has been invested with small cause powers beyond Rs. 300, and even this raised considerable opposition from the lay and professional public alike. At present it is only in Bangalore City that this remains, even Subordinate Judges elsewhere exercising small cause powers only up to Rs. 100.

It is therefore submitted that the power of Government to invest jurisdiction may be limited to Rs. 300. (Please see also criticism of the Law Association.)

(2) The next point for remark is the finality given to judgments of Small Cause Courts.

The late Chief Judge Mr. Ramachandra Iyer and the Law Association ask for powers to the Chief Court to revise decisions on questions of fact also. This suggestion is acquiesced in, but not without hesitation, by Mr. Staley. But in this case we would virtually be surrendering away the most vital principle embodied in the Bill. With due respect I fail to see what real difference there will be between an original suit and a small cause one if an appeal on facts is to be given. We have a bar daily growing in intelligence and number and they would insist [and the Judges would be compelled to listen to them] that as the decisions are liable to be upset even on appreciation of evidence, depositions of witnesses should be taken down at some length. In fact Mr. Ramachandra Iyer has actually suggested that Small Cause Judges should note down the demeanour of witnesses just as Original Judges. The evils of protracted litigation would remain and the object of a small cause trial, *viz.*, cheap and speedy disposal of petty suits would be frustrated.

Neither is there much virtue in the several expedients suggested to discourage the right of appeal. Imposition of heavy court fees (as in the case of original appeals) would not altogether meet the situation, We know how parties, otherwise insolvent, manage to file appeals in original cases paying heavy court fees, though they know that there is absolutely no chance of success in the Appellate Court. Their chief object is to annoy and defeat the successful party and this they succeed in doing in many cases.

The suggestion under consideration is based on the assumption that our judiciary is liable to go wrong in its decisions. But can any system be devised which would render errors impossible? Is not an Appellate Court liable to err on questions of fact at least as much as the Original Courts? It seems on the whole better to provide for cheap and speedy disposal of cases, even at the risk of liability for error in some of them than to allow petty cases to be dragged on, at heavy cost, for indefinite periods. The system is already in vogue in British India and it has given rise to no discontent. I would therefore respectfully submit that the draft regulation should remain as it is in this respect.

(3) Mr. Ramachandra Iyer suggests that suits on hypothecation bonds where relief is asked for both against the person and the immovable property of the defendant must be made cognisable by Small Cause Courts. His argument is that in such cases the suit is very similar to an ordinary small cause suit on a bond and that the mere fact that relief against immovable property is asked for should not make any difference in the matter so long as title is not disputed. He quotes as an instance the provisions of the Presidency Small Cause Courts Act where suits for the recovery of immovable property under certain conditions are made cognisable by the Small Cause Courts.

The Law Association makes exactly the opposite criticism, saying that item 1 of the schedule may include suits on hypothecation bonds (of immovables) and that this class of suits ought to be expressly excluded. This view may perhaps be accepted. For one thing, to adopt Mr. Ramachandra Iyer's suggestion would be to change the practice existing here as well as in British India for a very long time without any adequate reason, as pointed out by the Law Association. Again there is much force in the criticism of that body that collusive suits with a view to create evidence of title would be encouraged.

Mr. Ramachandra Iyer's allusion to the provisions of the Presidency Small Cause Courts Act is hardly applicable here. They refer to suits to recover possession in certain cases only (as for instance when land has been let on rent or license) and are of the nature of possessory suits provided for under Section 9 of the Specific Relief Act.

I am not sure (I have not had time to study the literature on the subject) but I venture to guess that these provisions were incorporated in the Presidency Small Cause Courts Act because except the High Court there was then no other court in the Presidency towns which could give relief in those cases. It was probably thought inadvisable to trouble the High Court in its original jurisdiction with such summary suits. Latterly a City Civil Court has been established in Madras and I doubt very much whether the above provisions would have found a place in the Presidency Small Cause Courts Act if that court was then in existence.

I therefore think it safe not to complicate matters by letting in such classes of suits.

S. HIRIYANNAIYA.

30-1-09

D. O. No. 1783, dated the 20th March 1909, from Mr. Copeland, First Assistant Resident in Mysore, to Mr. V. P. Madhava Rao, C.I.E., Dewan.

In continuation of my D. O. letter 1782, * dated 20th March 1909, I am desired to state that the Resident sees no *prima facie* objection to the Mysore Small Cause Courts Bill † being placed before the Legislative Council.

* Printed at the beginning of the correspondence (Enclosure to Serial No. 1).

† Separately submitted in connection with the Local Boards Amendment Regulation.

Extract from Assistant Secretary's note showing the stages in which the several Bills stood, submitted on the 3rd April 1909 :—

The Small Cause Courts Bill *—This has been published in the Gazette † under the orders of the Dewan. It is understood that Mr. Chandrasekhara Aiyar will take charge of it at the Council at the next meeting, when it will have to be considered and referred to a Select Committee.

Let me see this separately. I think the Chief Court is sending up some new proposals about this draft.

H. V. N.
17-4-09.

† *Vide* courts File No. 193-08

The Residency have intimated general approval of the Bill.

But perhaps the Second Councillor may be agreeable to taking it up in which case I shall have some relief. (The understanding is that the Secretary usually only takes up Bills relating to the Dewan's portfolio.)

2. Submitted with a copy of the Bill and of the collection of printed papers on the subject. The office has not received till now any new proposals from the Chief Court.

S. HIRIYANNAIYA.

20-4-09.

T. K. S.
19-4-09.

S. N.
20-4-09.

3. Please send with this a copy of the latest Small Cause Courts Act of British India. What is this draft based on? I should like to see that also.

H. V. NANJUNDAYYA,
2nd Councillor.
20-4-09.

4. Our draft is based on the British Indian Act but with important modifications especially in the schedule.

S. HIRIYANNAIYA.
21-4-09.

5. The Chief Court was thinking of sending a criticism of this Bill just before I left. I am not sure if the matter has not been lost sight of on account of the vacation. I think we may as well have their criticisms before proceeding further.

6. The Regulation is mainly intended for separate Small Cause Courts. It is by no means clear that there is any crying need for such a court in this City. No other place needs it in the State. Unless we are prepared to establish such a court, it is not necessary to have the Bill on these lines. We should so frame it as to be applicable to ordinary courts exercising small cause jurisdiction as at present. On the whole, I should prefer the latter course. Please submit to the Dewan for instructions before proceeding further.

H. V. NANJUNDAYYA.
3-5-09.

7. Yes. The Chief Court's criticism may be invited and awaited.

T. ANANDA ROW.
4-6-09.

8. Do so please.

K. S. CHANDRASEKHARA AIYAR,
5-6-09.

9. Draft submitted for approval.

T. K. S.
5-6-09

10. Issue.

S. HIRIYANNAIYA.
5-6-09.

1. *To the Registrar, Chief Court, No. J. 3784, dated 7th June 1909.*

Requests that Government may be favoured with the opinion of the Chief Court, as now constituted, on the draft Bill to consolidate and amend the law relating to the Court of Small Causes in Mysore.

2. *From the Registrar of the Chief Court in Mysore, No.* 6670-361, *dated* 11*th June* 1909.

States with reference to the above, that the opinion of the Chief Court will be forwarded as soon as the Chief Judge (Mr. Justice Ismay) returns from his leave on the 12th July 1909.

Submitted for information.

M. S. S.
14-6-09.

S. N.
15-6-09.

11. Submitted to 2nd Councillor for perusal.

C. S. BALASUNDARAM IYER.
15-6-09.

12. In the meanwhile, the other proposals I have newly made in this connection may be reduced to shape and submitted to the Dewan. If they are provisionally approved, we may call for the Chief Court's opinion on them also.

H. V. NANJUNDAYYA.
16-6-09.

13. Small Cause Courts Regulation.
(Sections from County Courts Act, 1888.)
93. (Non-suiting and fresh trial.)
101. (Trial by jury when parties require it.)
102. Jurors and their number.
103. Assessors.
120. Points on which appeal allowed.
(May be extended to revision.)

14. It is desirable that all Small Cause Courts including those under the Civil Courts Regulation should be guided by the new enactment. So a clause may be added to S. 16 of the Civil Courts Regulation.

15. Such Judge or Munsiff shall in the trial of such cases exercise the same powers and follow the same procedure as if he had been appointed a Judge of a Court of Small Causes under S. 6 of the Small Cause Courts Regulation.

"The Court of such a Judge or Munsiff shall thereupon be deemed to be a Court of Small Causes established under Regulation of and the provisions of the said Regulation shall all, as far as they apply, be applicable to such court in respect of small cause suits."

Draft Regulation, S. 10.

Perhaps we may return to the older form of mentioning exceptions following the British Code section. I believe the present Chief Judge is opposed to this innovation. The mention of exceptions is followed in the English County Courts Act.

17. Add "or that in such case no evidence has been illegally admitted or rejected."

(Cf S. 120, County Courts Act.)

18. The following may be added after S. 14 on the analogy of the English County Courts Act provisions already referred to:—

Section 93, County Courts Act.

(A) In every case in which satisfactory proof shall not be given entitling either the plaintiff or the defendant to judgment, a Court of Small Causes shall have power to non-suit the plaintiff; the Judge shall also have power if he thinks just to order a new trial to be had on such terms as he shall think reasonable, and in the meantime to stay proceedings.

Cf. 101 and 102.

(B) A plaintiff who has been non-suited under the foregoing section may subject to the law of limitation bring a fresh suit on the same cause of action.

(C) In all suits where the amount claimed shall exceed fifty rupees, it shall be lawful for the plaintiff or defendant to require the suit to be tried by a composite court on his depositing such cost and furnishing such security and giving such notice as may be determined by the Court in accordance with rules framed on this behalf by the Chief Court.

(D) When such application has been made and allowed, the case shall be heard by a court composed of the Judge of the Court in which the suit has been instituted, another Judge of a Civil Court not superior in rank to such Judge or (where there is no such Judge present at the place) a Magistrate to be deputed by the Magistrate of the district, and two jurors, one named by each of the parties.

The Judge of the Court in which the suit has been filed shall preside at the trial, and shall have a casting vote whenever the members are equally divided in opinion; and judgment shall be delivered according to the opinion of the majority of the members of the composite courts.

19. The Assistant Secretary, Legislative Department, will get these incorporated in the Regulation. If necessary, I shall be glad to discuss these provisions.

H. V. NANJUNDAYYA,

16-6-09.

20. The file is submitted to the Dewan (as directed by the 2nd Councillor) for favour of orders as to whether the opinion of the Chief Court may be invited on the additions recorded above. The proposals are based on the English County Courts Act.

S. HIRIYANNAIYA.

13-7-09.

3. *Letter No. 396—22, dated the 23rd July 1909, from the Registrar of the Chief Court.*

Forwards a memo containing the views of the Judges of the Chief Court as at present constituted in regard to the Small Cause Courts Bill.

21. Secretary's remarks—

Please submit reference early.

K. S. C.

24-7-09.

Submitted with references.

T. K. S.

26-7-09.

S. N.

26-7-09.

22. The criticism of the Chief Court is directed mainly to the manner of enumerating suits of a small cause nature adopted in the schedule to the draft regulation but on *a priori* grounds alone a positive classification is to be preferred to " selection by exclusion " adopted in the British Indian Act. The change in the draft originated on a suggestion of Mr. Ramachandra Iyer, late Chief Judge, and has received the approval of Mr. Justice Best (late Chief Judge) and of Mr. Staley. Mr. Rangaswamiengar has also approved of it, as also Mr. Srinivasaiengar as Councillor. Even the Bangalore Law Association welcomes the measure—and particularly the departure made in it from the Indian Act in the attempt to specify the cases cognizable by the Small Cause Courts. It is true the Association urged some criticisms in points of detail but no objection was taken by them to the principle of the classification.

23. It is true the draft regulation has not met these minor criticisms, this is because the measure had to be introduced urgently and the late Dewan ordered its publication at once in the Gazette.

The Select Committee will no doubt consider all the criticisms urged.

24. It is therefore submitted that the Bill may be introduced in the present form with liberty to adopt any changes that may be necessary at the Select Committee stage.

The other points urged by the Chief Court are comparatively of minor importance.

S. HIRIYANNAIYA.

26-6-09.

25. I agree generally in the above remarks. The Bill and the criticisms thereon will no doubt be subjected to careful examination in Select Committee. The Chief Court Registrar's letter may in the meantime be submitted to the 2nd Councillor for perusal.

K. S. CHANDRASEKHARA AIYAR.

27-7-09.

26. The changes proposed by me for consideration and those now suggested by the Chief Court are of an important character and if they are to be incorporated, it seems to me better to withdraw the Bill under the last clause of Rule 34 and reintroduce with these alterations. But if the Dewan prefers to take the course suggested by the Secretary, I have no objection.

H. V. NANJUNDAYYA.

29-7-09.

27. My suggestion was intended merely to save time. I have certainly no objection to the Bill being withdrawn as recommended by the 2nd Councillor.

K. S. CHANDRASEKHARA AIYAR.

30-7-09.

Dewan's Order.

28. The opinion of the Chief Court may be invited as proposed.

The Bill (Small Cause Courts) may be omitted from the agenda for the next meeting. The question of withdrawing the Bill already published in the Gazette may be considered later on.

29. When the opinion of the Chief Court on certain additions proposed by the Second Councillor based on the English County Courts Act is received, that file together with these papers should be circulated to Council and the whole question brought at a Council meeting when each section may be gone through in detail.

K. MATTHAN.

1-8-09.

30. Please show this to the 2nd Councillor and take action accordingly. Let me see the file when it is quite ready.

K. S. CHANDRASEKHARA AIYAR.

2-8-09.

31. Put up draft soon.

S. HIRIYANNAIYA.

2-8-09.

32. Draft submitted.

S. HIRIYANNAIYA.

15-8-09.

T. K. S.

9-8-09.

S. N.

Submitted to His Highness.

43. (1) The recommendation of the Council in the accompanying Council Resolution regarding the draft Small Cause Courts Bill now before the Legislative Council may be approved.

(2) The resolution introduces into the Bill some of the amendments proposed by the Second Councillor, the most important or valuable of which is that in which, upon occasion arising, a mixed Court consisting of Judge and jury is constituted.

T. ANANDA ROW.
25-1-10

44. Approved.

K. R. W.
31-1-10.

45. As directed in person draft of a D. O. to the Residency is submitted informing them of the amendment now made to the Bill.

T. K. S.

S. N.

7-2-10.

46. The provisions now ordered to be included necessitate a further reference to the Residency. A draft has accordingly been put up.

47. The original Bill was ordered to be published under Rule 32 of the Council Rules. The additions now made may be published in the Gazette as *addenda* to the draft Bill. This will save us some time as otherwise the original Bill will have to be withdrawn and leave taken afresh to introduce the Bill as amended.

48. Draft may be approved.

S. HIRIYANNAIYA.

49.

H. V. NANJUNDAYYA.
11-2-10.

50.

T. ANANDA ROW.
15-2-10.

51. The fair copy of the D. O. to Residency is also submitted herewith for despatch from the Secretariat with a corrected copy of the Bill with the additions, etc., duly inserted.

B. V. L.

15-2-10.

52. Issue.

C. S. BALASUNDARAM IYER.
17-2-10.

6. D. O. No. Pol. 687, dated the 15th February 1910.

Forwards a copy of the addendum.

53. Draft of an addendum to be published in the Gazette is also submitted for approval.

T. K. S.

S. N.

19-2-10.

54. The draft will be published in the Gazette a fortnight hence by which time we may hope to hear from the Residency.

Let this be submitted about the 1st of March by which time we may hear from the Residency.

S. HIRIYANNAIYA.
21-2-10.

7. D. O. No. 1382, dated the 5th March 1910, from Major W. G. Grey, First Assistant Resident.

Approves of the addition proposed to the Bill in the nature of the constitution of composite courts and states that the Resident would suggest special mention being made of this provision in the statement of objects and reasons.

55. Submitted with the draft addendum to the Bill containing also addition to the statement of objects and reasons for the Bill already published.

T. K. S.
7-3-10.

S. N.
8-3-10.

56. Draft approved by the Dewan. Issue at once.

S. HIRIYANNAIYA.

8-3-10.

57. Submitted. The Bill was introduced at the meeting of the Legislative Council held on the 15th August 1910, when it was referred to a Select Committee for consideration and report. The report of the Committee and the Bill as amended by that body were considered at the meeting of the Legislative Council held on the 23rd November 1910., when certain changes consequential to the addition of schedule II were also adopted. The Bill is reserved for being passed at a subsequent meeting of the Council.

58. The sanction of the Government of India has to be obtained for the Bill being passed into law. Typed draft as revised by the Assistant Secretary is submitted for approval.

T. K. S.
21-12-10

S. N.
21-12-10

59. (1) Draft may be approved.

(2) It is considered unnecessary to refer in the draft to the changes made by the Select Committee, as it is proposed to send a copy of their report and the Bill as amended by them. The report contains a full account of the changes made by them.

(3) A detailed explanation of the change in the schedule has been given in the draft, as compared with the British Indian Act, it is the most noteworthy departure in our Bill.

S. HIRIYANNAIYA.

21-12-10.

60. The draft letter may be approved. As the changes made are many, put in a copy in which the deleted portions are all cancelled in red ink.

H. V. NANJUNDAYYA.

23-12-10.

61. Draft approved by Dewan.

C. E. R.
31-12-10.

62. Issue.

C. S. BALASUNDARAM IYER.

3-1-11.

8. No. Pol. 619, dated 5th January 1911, to the First Assistant Resident.

Forwarding a copy of the Small Cause Courts Bill and requesting the sanction of the Government of India for its being passed into law.

9. From the same No. 1295, dated 28th February 1911.

Communicates the sanction of the Government of India for passing the Small Cause Courts Bill, with the usual reservation.

10. D. O. No. 296, dated 28th February 1911, from the Resident, to the Dewan.

Observes that it has been suggested that the provisions as to "Composite Courts" in Section 8 of the Bill are extremely complicated and that whereas the jurors in the County Courts are only judges of fact the two jurors of the Composite Courts under the Regulation are judges of both fact and law which is anamolous.

63. Submitted for orders with the volume of Chitty's Statutes containing the County Courts Act.

T. K. S.
3-3-11

S. N.
4-3-11

64. Submitted to 2nd Councillor.

Though there is no specific provision in the English County Courts Act confining the functions of the jury to the trial of questions of fact, it seems to be a well understood principle in English law that they cannot take part in deciding questions of law. In this view and if the suggestion of the Government of India is to be accepted, clause 8 of the draft will be suitably altered and submitted for approval.

S. HIRIYANNAIYA.

4-3-11.

65. On points of law the decisions will I believe be open to correction on revision. Please bring up this file to me personally for consideration.

H. V. NANJUNDAYYA.

13-3-11.

66. I do not quite see the necessity of any alteration, as on points of law the case may be taken before the Chief Court; the Judge will also have a casting vote. However in deference to the opinion expressed, we may make the alteration as proposed in clause 8 of the Bill.

H. V. NANJUNDAYYA.

27-3-11.

67. The amendment may be brought forward at the next meeting of the Legislative Council and put through.

T. ANANDA ROW.

30-3-11.

68. Amendment of para 3 of clause 8 of the Small Cause Courts Bill.

The following shall be substituted in place of para 3 of clause 8:—

"The Judge [of the Court in which the suit has been instituted] shall settle what are the questions of law and what the questions of fact arising in the case and he shall have the sole power to decide the questions of law. He shall preside at the trial and shall have a casting vote whenever the members are equally divided in opinion and judgment shall be delivered in accordance with the opinion of the majority of the members of the Composite Court on all questions of fact."

69. *Small Cause Courts Bill.*—After revising the provision about the reference of suits to juries, by taking out questions of law out of their jurisdiction, it appears to me unnecessary to have a Judge or Magistrate sitting along with the judge of the Small Cause Court. Juries in the far more important issues in Sessions cases decide facts finally without the association of a judicial officer with them. It would be a material gain in simplicity and despatch if we remove this provision. I would therefore introduce a further amendment to the effect that three jurors may be appointed according to rules to be framed. The rules may, for example, make it that the judge, the plaintiff and the defendant should each nominate a person, the latter two from a list previously framed. Even if a party's nominee is a partisan, the judge and his nominee are independent and the judge will have a casting vote where necessary. The form of the amendment is given in the paper annexed and, if approved, it will be moved by me.

H. V. NANJUNDAYYA.

14-4-11

70. For para 2 of clause 8, substitute the following:—

When such an application has been made and allowed, the case shall be heard by a court composed of the judge before whom the suit has been instituted, and three jurors to be selected in accordance with rules to be framed on this behalf by the Chief Court.

H. V. NANJUNDAYYA.

15-4-11

71. *Note.*—The rules may, if considered necessary, indicate that another Judge or Magistrate may be selected as a juror by the judge, but it seems unnecessary to do so.

H. V. NANJUNDAYYA,

15-4-11

72. Please circulate to 1st Councillor and bring up at Monday's meeting.

T. ANANDA ROW.

15-4-11

73. Seen.

K. P. PUTTANNA CHETTY.

15-4-11

74. Submitted to Secretary. Attention is invited to the memorandum of the 2nd Councillor suggesting some further amendments to the Small Cause Bill. The Dewan desires that this should be brought up for discussion in the council meeting on Monday next, after circulation to 1st Councillor. The 1st Councillor has seen the file.

S. HIRIYANNAIYA.

15-4-11

75. Extract from the Proceedings of the 262nd meeting of the Council of His Highness the Maharaja, held at Bangalore on the 17th April 1911.

V. *Subject.*—(Clause ii of Schedule.)

Amendment of paras 2 and 3 of clause 8 of the Draft Small Cause Courts Bill.

OPINION OF THE COUNCIL.

The following amendments may be approved :—

(i). For para 2 of clause 8 substitute the following :—

"When such an application has been made and allowed, the case shall be heard by a court composed of the judge before whom the suit has been instituted, and three jurors to be selected in accordance with rules to be framed in this behalf by the Chief Court."

(ii). For para 3 substitue the following :—

"The judge shall settle what are the questions of law and what the questions of facts arising in the case and he shall have the sole power to decide the questions of law. He shall preside at the trial and shall have a casting vote whenever the members are equally divided in opinion and judgment shall be delivered in accordance with the opinion of the majority of the members of the Composite Court on all questions of fact."

T. ANANDA ROW,

Dewan.

76. The necessary action hereon may be taken in anticipation of His Highness' Approval as the Legislative Council is to meet on the 27 instant.

77. The Bill was placed before the Legislative Council with the above amendments and was finally passed by the council at the meeting held on the 27th April 1911. Sanction of His Highness the Maharaja has now to be obtained for its promulgation as law. Submitted with a copy of the Bill as usual for the Dewan's signature.

T. K. S. (25)
28-4-11
S. N. (11)
29-4-11

S. HIRIYANNAIYA.
1-5-11
C. S. BALASUNDARAM IYER.
2-5-11
H. V. NANJUNDAYYA.
2-5-11

Submitted to His Highness.

78. In communicating the sanction of the Government of India to the Small Cause Courts Bill, the Residency said that the provisions regarding "Composite Courts" introduced in the Bill (approved by His Highness in order dated 25th January 1910) "are extremely complicated" and "indicate some misapprehension of the proper functions of a jury."

(2) In order to remedy the defects pointed out, the amendments indicated in the accompanying Council Resolution of the 17th April were moved in the Legislative Council, and the bill as thus amended has been finally passed by the Legislative Council.

(3) I now solicit His Highness' early sanction to the Bill being promulgated as law. It is to come into effect from the 1st July 1911.

T. ANANDA ROW.
9-5-11

79. Telegram, dated the 19th June 1911, from the Dewan.

Small Cause Court Bill as passed by the Legislative Council approved by His Highness. Go ahead in regard to publication in *Mysore Gazette*, File follows.

D. O. No. 391, dated the 19th June 1911, from Mr. R. H. Campbell, Private Secretary to His Highness the Maharaja, to the Dewan.

In reply to your D. O. No. 2430, dated 16th June 1911, I am directed to say that His Highness gives his assent to the Small Cause Courts Bill as passed by the Legislative Council.

81. Immediate. Arrange to have it published in the Gazette of the 22nd instant.

S. HIRIYANNAIYA.
20-6-11

82. Draft of an order to the Compiler is submitted for approval.

T. K. S. (25)

S. N. (11)

20-6-11

83. Issue at once.

S. HIRIYANNAIYA.

28-6-11

11. To the Compiler, Mysore Gazette *No. J. 3469—Legis. 9-09, dated 20th June 1911.*

Orders that the Bill to consolidate and amend the law relating to Courts of Small Cause in Mysore which received the assent of His Highness the Maharaja on the 19th June 1911 be published for general information as Regulation VIII of 1911.

84. Submitted. Spare copies have been received from the Press and have been verified. Copies have to be sent to the Residency as usual. A draft letter is herewith put up.

S. V. S. (58)

30-6-11

S. N. (11)

1-7-11

85. Issue.

S. HIRIYANNAIYA.

1-7-11

12. No. Pol. 11, dated 4th July 1911, to the First Assistant Resident in Mysore.

Forwards ten copies of the Bill and requests that a copy be sent to His Highness the Nizam's Government as usual.

FILE No. 9 OF 1909-10.

Letter No. J. 3784, dated 7th June 1908, from the Secretary to Government, General and Revenue Departments, to the Registrar of the Chief Court of Mysore, Bangalore.

Serial No. 1.

I am directed to request that Government may be favoured with the opinion of the Chief Court on the Draft Bill to consolidate and amend the law relating to the [illegible]mall Causes in Mysore, published with Notification No. 5478—Legis. 44 [illegible]ber 1902.

A very early rep[illegible]s the bill is to be placed before the Legislative Council at its next meeting.

A Bill to consolidate and amend the law relating to Courts of Small Causes in Mysore.

Whereas it is expedient to consolidate and amend the law relating to Courts of Small Causes in Mysore; His Highness the Maharaja is pleased to enact as follows:—

CHAPTER I.

PRELIMINARY.

(Section 1 of Act IX of 1887.)

Title, extent and commencement.

1. (1) This Regulation may be called "The Mysore Small Cause Courts Regulation, 190 ."

(2) It extends to the whole of Mysore.

(3) It shall come into force on the 1st day of 190 .

[Section 2, sub-section (3) of Act IX of 1887.]

Construction of references to Act XI of 1865.

2. Any enactment or document referring to Act XI of 1865 shall, so far as may be, be construed to refer to this Regulation or to the corresponding portion thereof.

(Section 3 of Act IX of 1887.)

Savings.

3. Nothing in this Regulation shall be construed to affect—

(*a*) any proceedings before or after decree in any suit instituted before the commencement of this Regulation; or

(*b*) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature; or

(*c*) any local or any special law other than the Code of Civil Procedure.

(Section 4 of Act IX of 1887.)

Definition.

4. In this Regulation, unless there is something repugnant in the subject or context, "Court of Small Causes" means a Court of Small Causes constituted under this Regulation, and includes any person exercising jurisdiction under this Regulation in any such Court.

CHAPTER II.

CONSTITUTION OF COURTS OF SMALL CAUSES.

(Section 5 of Act IX of 1887.)

Establishment of Courts of Small Causes.

5. (1) The Government may, by order in writing, establish a Court of Small Causes at any place in Mysore.

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Government may define, and the Court may be held at such place or places within those limits as the Government may appoint.

[*Sub-section (1) of section 6 of Act IX of 1887.*]

6. When a Court of Small Causes has been established, the Government shall, by order in writing, appoint a Judge of the Court.

Judge.

(*Section 9 of Act IX of 1887.*)

7. A Judge of a Court of Small Causes may be suspended or removed from office by the Government.

Suspension and removal of Judges.

(*New section; in substitution for section 13 of Act IX of 1887.*)

8. The Government shall allow a Court of Small Causes such establishment of ministerial officers as may be necessary; and subject to any orders made by the Government in this behalf, the Judge of a Court of Small Causes may appoint the ministerial officers of the Court and may fine, suspend or dismiss them.

Ministerial officers.

(*Section 14 of Act IX of 1887.*)

9. (1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Regulation or in any other enactment for the time being in force as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

Duties of ministerial officers.

(2) The Chief Court may make rules, consistent with this Regulation and with any other enactment for the time being in force, conferring and imposing on the ministerial officers of a Court of Small Causes such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.

CHAPTER III.

Jurisdiction of Courts of Small Causes.

(*New Section.*)

10. All suits of the classes specified in the schedule, of which the value does not exceed such sum not exceeding Rs. 500 as may be fixed in each case by the Government in this behalf, shall be cognizable by a Court of Small Causes; and no other suits shall be so cognizable. Provided that the Government may at any time add to or vary the schedule by a notification published in the official Gazette.

Cognizance of suits by Courts of Small Causes.

(*Section 16 of Act IX of 1887.*)

11. Save as expressly provided by this Regulation or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

Exclusive jurisdiction of Courts of Small Causes.

CHAPTER IV.

Practice and Procedure.

(*Section 17 of Act IX of 1887.*)

12. The procedure prescribed in the chapters and sections of the Code of Civil Procedure specified in the second schedule to that Code shall, so far as those chapters and sections are applicable, be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits.

Application of the Code of Civil Procedure.

(*Section 22 of Act IX of 1887.*)

13. When the Judge of a Court of Small Causes is absent, the chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.

Adjournment of cases by chief ministerial officer.

(*Section 23 of Act IX of 1887.*)

Return of plaints in suits involving questions of title to immoveable property.

14. (1) Notwithstanding anything in the foregoing portion of this Regulation, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immoveable property, the Court may, at any stage of the proceedings, return the plaint to be presented to a Court having jurisdiction to determine the title.

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure and make such order with respect to costs as it deems just, and the Court shall, for the purposes of the Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

(*Section 24 of Act IX of 1887.*)

Appeals from certain orders of Courts of Small Causes.

15. Where an order specified in section 588, clause (29), of the Code of Civil Procedure, is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

(*Section 25 of Act IX of 1887.*)

Revision of decrees and orders of Courts of Small Causes.

16. The Chief Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such order with respect thereto as it thinks fit.

(*Section 37 of Act IX of 1887.*)

Finality of decrees and orders.

17. Save as provided by this Regulation, a decree or order made under the foregoing provisions of this Regulation by a Court of Small Causes shall be final.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

(*Section 28 of Act IX of 1887.*)

Subordination of Courts of Small Causes.

18. A Court of Small Causes shall be subject to the administrative control of the District Court, and to the superintendence of the Chief Court, and shall—

(*a*) keep such registers, books and accounts as the Chief Court from time to time prescribes, and

(*b*) comply with such requisitions as may be made by the District Court, the Chief Court or the Government for records, returns and statements in such form and manner as the authority making the requisition directs.

(*Section 29 of Act IX of 1887.*)

Seal.

19. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Government.

(*Section 30 of Act IX of 1887.*)

Abolition of Courts of Small Causes.

20. The Government may, by order in writing, abolish a Court of Small Causes.

(*Section 31 of Act IX of 1887.*)

Saving of power to appoint Judge of Court of Small Causes to other office.

21. (1) Nothing in this Regulation shall be construed to prevent the Government from appointing a person who is a Judge of a Court of Small Causes to be also a Judge of any other Civil Court or to be a Magistrate of any class or to hold any other public office.

(2) When a Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

(Section 32 of Act IX of 1887.)

Application of Regulation to Courts invested with jurisdiction of Court of Small Causes.

22. (1) So much of Chapters III and IV as relates to—

(*a*) the nature of the suits cognizable by Courts of Small Causes,

(*b*) the exclusion of the jurisdiction of other Courts in those suits,

(*c*) the practice and procedure of Courts of Small Causes,

(*d*) appeal from certain orders of those Courts and revision of cases by them,

and

(*e*) the finality of their decrees and orders subject to such appeal and revision as are provided by this Regulation,

applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts.

(2) Nothing in sub-section (1) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.

(Section 33 of Act IX of 1887.)

Application of Regulation and Code to Court so invested as to two Courts.

23. A Court invested with the jurisdiction of a Court of Small Causes, with respect to the exercise of that jurisdiction, and the same Court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Regulation and the Code of Civil Procedure, be deemed to be different Courts.

(Section 34 of Act IX of 1887.)

Modification of Code as so applied.

24. Notwithstanding anything in the last two foregoing sections,—

(*a*) when, in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, or

(*b*) when a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,—

the documents mentioned in section 224 of the Code of Civil Procedure shall not be sent with the decree, unless in any case the Court, by order in writing, requires them to be sent.

(Section 35 of Act IX of 1887.)

Continuance of proceedings of abolished Courts.

25. (1) Where a Court of Small Causes or a Court invested with the jurisdiction of a Court of Small Causes has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(2) Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure, as extended to Courts of Small Causes, or in any other enactment for the time being in force.

(Section 37 of Act IX of 1887.)

Publication of certain orders.

26. All orders required by this Regulation to be made in writing by the Government shall be published in official Gazette.

SCHEDULE.

SUITS COGNIZABLE BY COURTS OF SMALL CAUSES.

(See section 10.)

(1) A suit for money lent;
(2) A suit for money by or against a surety;
(3) A suit for the price of goods sold;
(4) A suit on a contract for work and labour;
(5) A suit on a contract of hiring and service;
(6) A suit for rent when there is an express agreement to pay;
(7) A suit for payment for board and lodging;
(8) A suit for money received by defendant for plaintiff's use;
(9) A suit for money paid to defendant by mistake or money overpaid;
(10) A suit for money paid or goods delivered at defendant's request;
(11) A suit for damages for breach of a contract of sale of goods;
(12) A suit for money deposited when the total deposit does not exceed the pecuniary jurisdiction of the Court;
(13) A suit for recovery of specific moveable property pledged or deposited with the defendant, or its value.

STATEMENT OF OBJECTS AND REASONS.

The Small Cause Courts Act, XI of 1865, was never formally extended to Mysore, but owed its force to a Notification of the Government of India in the Foreign Department, No. 31—I. J., dated the 28th January 1880, which added certain words to Rule 8 of the Rules promulgated with the earlier Notification of 27th August 1879, No. 235—I. J.

The amended Rule 8 is transcribed below, the additions being shown in italics:—

"The Chief Commissioner may invest, within such local limits as he from time to time fixes, any Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes *under Act No. XI of 1865 (an Act to consolidate and amend the law relating to Courts of Small Causes, etc., etc.)* for the trial of suits cognizable by such Courts up to such amount as the Chief Commissioner may think fit, not exceeding Rs. 500, and any Munsiff with similar jurisdiction up to such amount as the Chief Commissioner may think fit, not exceeding Rs. 50."

"*All the provisions of the said Act No. XI of 1865 shall, so far as they are consistent herewith, apply to the Court of any Subordinate Judge or Munsiff when exercising the jurisdiction with which he is so invested.*"

"The Chief Commissioner may, whenever he thinks fit, withdraw such jurisdiction from the Subordinate Judge or Munsiff so invested."

The whole of the substantive Notification of the 27th August 1879 was, however, repealed by Section 2 of the Mysore Civil Courts Regulation, I of 1883, since which time all investitures of judicial officers with Small Cause powers have been effected under the said Regulation, I of 1883. But the amending Notification of 28th January 1880 was not at the time expressed to be repealed; and this has led, in certain quarters, to the entertainment of doubts as to the Small Cause law in force in Mysore.

2. The object of the present measure is not only to set such doubts at rest, but also to bring the law of Mysore on the subject into line with the British Indian Law, *viz.*, the Provincial Small Cause Courts Act, IX of 1887, so far as the provisions of the latter are adapted to local requirements. It may be noted, in passing, that the Bill is not intended to supersede Section 16 of the Civil Courts Regulation. The former enables Government (among other things) to establish Courts of Small Causes pure and simple, while the latter provides for the investiture of certain classes of judicial officers with the jurisdiction of Courts of Small Causes, such jurisdiction being exercised as laid down in Clause 22 of the Bill.

3. Among the provisions which it has been considered unnecessary to incorporate in the Bill for the present are those relating to the appointment, functions, etc., of single Judges for several Courts of Small Causes, Additional Judges and Registrars.

4. Clause 8, regarding ministerial establishment, is new, and corresponds to Section 13 of Act IX of 1887, but is simpler than the latter.

5. Act IX of 1887 contains a schedule of 44 clauses, which specifies the suits excluded from the jurisdiction of Courts of Small Causes; all other suits of a civil nature which do not exceed a prescribed limit of value are made cognizable by those Courts.

The purpose of this classification is, doubtless, to restrict the jurisdiction of Small Cause Courts to petty suits not involving difficult or intricate questions of law or fact. As a matter of fact, however, several of the suits cognizable by such Courts under the Indian Act are (as shown by Mr. Justice A. Ramachandra Aiyar in his memoranda of April 1890), as difficult as some of those which have been excluded. Thus, actions for deceit, or negligence, or for money had and received, or for compensation for not completing a contract of sale of land, are not excluded from the schedule and yet these classes of actions *prima facie* involve as difficult questions of law and fact as the classes specified in the schedule. Again, a concrete instance may be imagined in which the same set of acts may cause injury to the *person* and to *personal property* of the plaintiff; but though the questions of fact and law involved, so far as they relate to the liability of the defendant to pay damages, may be the same in both cases, a Small Cause Court is deemed competent to adjudicate on a suit for compensation in the latter case, but not in the former. Similarly, an action for conversion, say, of a horse or jewel, though sometimes more difficult to decide than an action for libel or malicious prosecution, is yet cognizable by a Small Cause Court, while the latter is excluded from its jurisdiction.

These and other instances suggest that the classification of suits contained in the Indian Act is not quite satisfactory, and that the sphere of suits to be excluded from the cognizance of Small Cause Courts should be enlarged.

A reference to past reports on the administration of Civil Justice in Mysore shows that most of the suits filed on the Small Cause side are suits for money lent, or for goods supplied, or for wages, or for rent. All the suits which it is desirable a Small Cause Court should be empowered to try may easily be grouped under a few general heads. It has therefore appeared to be the best course to specify these groups in a new schedule in place of the one appended to the Indian Act and to enact that suits not so specified shall not be entertained by Small Cause Courts. This has accordingly been done in Clause 10 of the Bill, which also empowers Government to add to or vary the schedule by a notification published in the Gazette.

It may be added that the Chief Court, whose opinion was invited on the measure, considers that the new provision is a decided improvement on the corresponding provision of the Indian Act, and that the classification of suits cognizable by Courts of Small Causes as given in the Bill is at once simple and clear.

Letter No. 6670—361, dated Bangalore, 11th June 1909, from the Registrar of the Chief Court of Mysore, to the Secretary to Government, General and Revenue Departments.

Serial No. 2.

I am directed to acknowledge the receipt of your letter No. J. 3784, dated the 7th instant, and to state that the opinion of the Chief Court will be forwarded as soon as the Chief Judge (Mr. Justice Ismay) returns on the 12th proximo.

Letter No. 396—79, dated Bangalore 23rd July 1909, from V. A. Rajaratna Mudaliar, Esq., Registrar, Chief Court of Mysore, to K. S. Chandrasekhara Aiyar, Esq., B.A., B.L., Secretary to Government, General and Revenue Departments.

Serial No. 3.

Adverting to your letter No. J. 3784, dated the 7th June 1909, I am directed to forward the enclosed note embodying the views of the Chief Court as now constituted on the draft Bill to consolidate and amend the law relating to Courts of Small Causes in Mysore, together with a postscript by Mr. Justice Krishna Rao.

NOTE.

1. The main distinction between the Bill now referred for opinion and the Act IX of 1887 at present in force in British India lies in the fact that in the Bill an attempt has been made comprehensively to define Small Cause Court jurisdiction whilst in the Act, suits excluded from such jurisdiction are scheduled in detail.

When the Bill was originally circulated in 1903, the Bangalore Law Association whilst marking with great pleasure the departure made in the Bill from the British Indian Act offered some severe criticism upon the attempt to classify the suits cognizable by Small Cause Courts. In the schedule appended to the Bill as now drafted, no endeavour has been made to meet these criticisms.

The Judges of the Chief Court are apprehensive that the principle adopted in the Bill will lead to considerable difficulty. A few of these difficulties are foreshadowed by the Bangalore Bar Association and the criticism offered by the association is in no way exhaustive. The Judges desire to point out that the British Indian Act has worked smoothly for more than twenty years and that such difficulties as have from time to time arisen are now settled by case law. They are not aware in what respect the circumstances of the Mysore State differ materially from the circumstances of many parts of British India, and they feel constrained to express a doubt as to whether the Bill as now drafted will be found to be any improvement upon Act XI of 1865. Their recommendation is that the principle underlying Act IX of 1887, be adhered to with such alterations in the Schedule as may be found necessary.

2. Other matters which appear to call for remarks are noted below:—

Clause 2.—(1) If Act XI of 1865 is not in force in the Mysore State, it follows that all orders hitherto made under section 16 of the Mysore Civil Courts Regulation, 1883, have been *ultra vires*. But the applicability of the Act has been affirmed in numerous decisions of this Court, and it is therefore necessary that it should be formally repealed. Sub-clause (1) would run thus:—

"Act XI of 1865 is hereby repealed."

Clause 8.—(2) The first part of this clause appears to be unnecessary and the last part is superfluous (*vide* Section 16 of the General Clauses Regulation, 1899). The draft might run thus:—" Subject to any orders made by the Government in this behalf, the ministerial officers of a Court of Small Causes shall be appointed by the Judge of the Court."

Clause 10.—(3) The objections to this clause have been already stated.

Sub-Clause (1), Clause 14—It is not understood why the words 'or other title which such a Court cannot finally determine' which occur in Section 23, sub-section (1), of Act IX of 1887, have been omitted from this sub-clause.

Sub-clause (1) (d), Clause 22—After 'case' insert 'decided.'

Postscript by Mr. Justice Krishna Rao.

I wish to add that during the long period of fifteen years I was the District Judge of the Civil and Military Station, invested with the jurisdiction of a Small Cause Court to try suits up to Rs. 500 in value, I found little or no difficulty in working Act IX of 1887, which has been made applicable to that station. Further, I do not see why our Munsiffs and Subordinate Judges who are by no means inferior * to the Munsiffs and Subordinate Judges in the neighbouring Presidencies of Madras and Bombay, should be considered incompetent to deal with difficult or intricate questions of law or fact which may arise in the trial of suits which they may be called on to try as Small Causes, when Munsiffs and Sub-Judges in British India are considered competent to deal with such questions in cases of much larger value which they are generally empowered to try. In Madras, Munsiffs of some years' standing are invested with jurisdiction to try Small Cause Suits of value not exceeding Rs. 200, while all the Sub-Judges exercise similar jurisdiction with respect to suits of the value of Rs. 500 and under.

*This was also, I believe, the opinion of Mr. Justice Staley. P. S. K.

Besides under the proposed Regulation, as under Act IX of 1887, provision exists for errors of law committed by the Subordinate Courts being rectified by the Chief Court and this ought to be a sufficient consideration for the Legislature enlarging the sphere of suits made cognizable by Courts of Small Causes.

Letter No. J. 614, dated the 25th August 1909, from the Secretary to Government, General and Revenue Departments, to the Registrar, Chief Court of Mysore Bangalore.

Serial No. 4.

Adverting to your letter No. 396—22, dated the 23rd July ultimo, forwarding the views of the Judges of the Chief Court on the draft Small Cause Courts Regulation, I am directed to forward herewith the following suggestions which have been brought forward for consideration in connection with the said Regulation. They are based on certain provisions of the English County Courts Act and are purely of an enabling character.

I am to request that the opinion of the Chief Court may be obtained thereon and forwarded to Government.

1. *Clause 16.*—The words "or that in such case no evidence has been illegally admitted or rejected" be inserted after the words "according to law" occurring in this clause. (*Cf.* Section 120, County Courts Act.)

2. The following additions be made after clause 14 on the analogy of Sections 93 to 101 and 103 of the said Act:—

"14 A. In every case in which satisfactory proof shall not be given entitling either the plaintiff or the defendant to judgment, a Court of Small Causes shall have power to non-suit the plaintiff.

Provided that a plaintiff who has been non-suited under the foregoing section may, subject to the law of limitation, bring a fresh suit on the same cause of action."

"14 B. In all suits where the amount claimed shall exceed 100 rupees it shall be lawful for the plaintiff or defendant to require the suit to be tried by a Composite Court, on his depositing such costs and furnishing such security and giving such notice as may be determined by the Court in accordance with rules framed on this behalf by the Chief Court.

When such application has been made and allowed, the case shall be heard by a Court composed of the Judge of the Court in which the suit has been instituted, another Judge of a Civil Court not superior in rank to such Judge or (where there is no such Judge present at the place) a Magistrate to be deputed by the Magistrate of the District and two jurors, to be selected in accordance with rules to be framed by the Chief Court.

The Judge of the Court in which the suit has been filed shall preside at the trial, and shall have a casting vote whenever the members are equally divided in opinion and judgment shall be delivered according to the opinion of the majority of the members of the Composite Court."

An early reply is requested.

Letter No. 1015-52, dated 28th August 1909, from the Registrar, Chief Court of Mysore, Bangalore, to the Secretary to Government, General and Revenue Departments.

Serial No. 5.

With reference to your letter No. J. 614, dated the 25th instant, I am directed to forward the accompanying note embodying the views of the Judges of the Chief Court on the suggestions now put forward in connection with the draft Small Cause Courts Regulation.

NOTE.

Clause 16.—The addition of the proposed words can do no good and may do some harm. The present clause as interpreted by case law confers ample discretion on the Chief Court to interfere when it appears that any substantial injustice has resulted to a party from any material misapplication or misapprehension of law or from any material error in procedure. The addition of the words now proposed may suggest the inference that interference in matters of adjective law is intended to be limited to cases in which evidence has been illegally admitted or excluded.

The object of the addition is to make interference permissible to some extent on gross error on facts. A more suitable wording may be substituted. Addition unnecessary.

Clause 14 A.—The power to withdraw a suit which is conferred by section 373 of the Civil Procedure has always been held to be an efficient equivalent of an English non-suit. If the present proposals are given effect to, it is feared that in the hands of some Judges a suit will never be terminated.

Power to withdraw with liberty to refile is a non-suit no doubt. If that existing power has not been indiscriminately abused, why should this be feared to have that effect? The two clauses in 14 A are independent and may be separately considered on their merits.

Clause 14 B.—The proposals in connection with this clause do not appear to be based on the analogy of any known law. There is nothing to commend and much to condemn. The ultimate result of any suit would not be affected, because each so-called juror would side with his respective party and the Judge would outvote the Magistrate. Durations which are now far too high would increase considerably. It would also be necessary to appoint extra Munsiffs for Bangalore and Mysore where Small Cause Courts will presumably be established. The existing Munsiffs at these places have at present more work than they can get through, and cannot possibly spare time for the extraneous burden now sought to be imposed upon them.

There is an analogous provision in English law. This may be discussed. It is no doubt novel but it is not necessarily impracticable or undesirable merely on that account.

D. O. No. 687, dated the 15th February 1910, from the Dewan, to the Resident.

Serial No. 6.

Adverting to Mr. Copeland's letter No. 1783, dated 20th March 1909, *re* the Small Cause Courts Bill, I write to say that the Durbar have on further consideration decided to introduce into the said Bill certain provisions regarding non-suiting and trial of suits by composite courts, *viz.*, courts composed of judges and jury. These provisions are taken from the English County Courts Act and will appear as clauses 14 A and 14 B in the draft Bill. I am to add that the Bill, as now revised will be placed before an early meeting of the Legislative Council.

*Please see sections 93, 101 and 102, Chitty's Statutes, Vol. II.

Addendum to the Bill to consolidate and amend the Law relating to the Courts of Small Causes in Mysore.

The following shall be added as clauses 14A and 14B to the above Bill published with Notification No. 246—L. C., dated the 3rd March 1909, in the Gazette issue of 4th idem, and to the statement of objects and reasons appended thereto: -

"14A. In every case in which satisfactory proof shall not be given entitling either the plaintiff or the defendant to judgment, a Court of Small Causes shall have power to non-suit the plaintiff; provided that a plaintiff who has been non-suited under this section may, subject to the law of limitation, bring a fresh suit on the same cause of action.

14B. In all suits where the amount claimed shall exceed one hundred rupees, it shall be lawful for the plaintiff or the defendant to require the suit to be tried by a composite court on his depositing such costs and furnishing such security and giving such notice as may be determined by the court, in accordance with rules to be framed in this behalf by the Chief Court.

When such an application has been made and allowed, the case shall be heard by a Court composed of the Judge of the Court in which the suit has been instituted, another Judge of a Civil Court not superior in rank to such Judge or, where there is no such Judge present at the place, a Magistrate to be deputed by the Magistrate of the district and two jurors to be selected in accordance with rules to be framed in this behalf by the Chief Court.

The Judge of the Court in which the suit has been filed shall preside at the trial and shall have a casting vote whenever the members are equally divided in opinion; and judgment shall be delivered according to the opinion of a majority of the members of the composite court."

Addition to the Statements of Objects and Reasons.

"The provisions contained in clauses 14A and 14B relating to non-suiting and trial of suits by composite courts, *i. e.*, courts composed of judges and jury, are new and are based on sections 93, 101 and 102 of the English County Courts Act, 1888."

D. O. Letter No. 1382, dated the 5th March 1910, from Major W. G. Grey, First Assistant Resident, to Mr. T. Ananda Row, B.A., Dewan.

Serial No. 7.

I am desired to acknowlege, with thanks, the receipt of your D. O. letter No. 687, dated the 15th February 1910, regarding Mysore Small Cause Courts Bill.

The proposed constitution of composite courts is an interesting experiment and, the Resident ventures to suggest, is deserving of special mention in the Statement of Objects and Reasons.

Letter No. Pol. 619, dated the 5th January 1911, from the Secretary to Government, General and Revenue Departments, to the First Assistant Resident in Mysore, Bangalore.

Serial No. 8.

I am directed to address you on the law relating to the Courts of Small Causes in Mysore and to state as follows:—

2. The procedure of the courts exercising small cause jurisdiction in the State is governed by Act XI of 1865 of the Governor-General in Council. This Act was replaced in British India in 1887 by a new Act (The Provincial Small Cause Courts Act) but in Mysore the old Act of 1865 continues to be in force.

3. The Chief Court are of opinion that the Act of 1865 is unsuited to present condition and representations have also been made in the Representative Assembly for a more simple and up-to-date enactment on the subject. A Bill was therefore prepared after consultation with the Chief Court and was placed before the Legislative Council on the 15th August 1910.

4. Though the Bill was modelled on the Provincial Small Cause Courts Act of 1887 of British India, it differed from it in some important particulars.

(1) Act IX of 1887 contains a schedule of 44 clauses, which specifies the suits excluded from the jurisdiction of Courts of Small Causes ; all other suits of a civil nature which do not exceed the prescribed primary limit are made cognizable by those courts.

The purpose of this classification is, doubtless, to restrict the jurisdiction of Small Cause Courts to petty suits not involving difficult or intricate questions of law or fact. As a matter of fact, however, several of the suits cognizable by such courts under the Indian Act are, it is believed, as difficult as some of those which have been excluded. Thus, actions for deceit, or negligence, or for money had and received or for compensation for not completing a contract of sale of land, are not excluded from the schedule and yet these class of actions *prima facie* involve as difficult questions of law and fact as the classes specified in the schedule. Again, a concrete instance may be imagined in which the same set of facts may cause injury to the *person* and to personal *property* of the plaintiff; but though the questions of fact and law involved, so far as they relate to the liability of the defendant to pay damages, may be the same in both cases, a Small Cause Court is deemed competent to adjudicate on a suit for compensation in the latter case, but not in the former. Similarly, an action for conversion, say, of a horse or a jewel, though sometimes more difficult to decide than an action for libel or malicious prosecution, is made cognizable by a Small Cause Court while the latter is excluded from its jurisdiction.

A reference to past reports on the administration of Civil Justice in Mysore shows that most of the suits filed on the Small Cause side are suits for money lent, for goods supplied, for wages, or for rent. It appeared to the Durbar that all the suits which a Small Cause Court may be empowered to try could easily be grouped under a few general heads and it was therefore decided to adopt a new schedule in place of the one appended to the Indian Act and to enact that suits not specified in this schedule shall not be entertained by Small Cause Courts. Power has been reserved to Government to add to or vary the schedule according as experience may dictate.

(ii) *Cluses 7 and 8*—Clause 7 gives a Judge power to non-suit the plaintiff when the case has not been satisfactorily proved on either side. It is similar to section 373 of the existing Code of Civil Procedure which gives power to allow the plaintiff to withdraw a suit with liberty to file it again. The difference between this and the proposed provision is that the Court according to the latter provision may act of its own accord without a request from the plaintiff whenever it finds, after the case is closed, that the evidence on either side is not conclusive and in such a case, the court may enter a judgment of non-suit. This will not prevent the entertainment of a new suit on the same cause of action, provided it is not barred by the law of limitation.

Clause 8.—This clause provides for the constitution of composite courts when parties desire to have them, and is adopted from the County Courts Act of England, section 100. The provision is no doubt novel so far as India is concerned, but the Durbar consider it well worth a trial.

5. The Bill was referred to a Select Committee of the Legislative Council for consideration and report. The accompanying copy of their report explains the changes made by them in the Bill. I am to invite attention to the fact that the provision regarding composite courts met with the unanimous approval of the members of the Committee, as calculated to give greater finality to decisions of Small Cause Courts and inspire greater confidence in the minds of the public in the decisions of those courts on questions of fact.

6. The recommendations of the Select Committee were considered and approved by the Legislative Council with certain minor changes in clauses 2 and 4 of the Bill at the meeting held on the 23rd November 1910 and I am now to request that the sanction of the Government of India may be obtained early for the Bill as now adopted being passed into law. A copy of the bill as finally adopted is appended herewith for ready reference.

A BILL TO CONSOLIDATE AND AMEND THE LAW RELATING TO COURTS OF SMALL CAUSES IN MYSORE.

(AS SENT TO THE GOVERNMENT OF INDIA FOR SANCTION.)

Whereas it is expedient to consolidate and amend the law relating to Courts of Small Causes in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Title, extent and commencement.

1. (1) This Regulation may be called "The Mysore Small Cause Courts Regulation, 1911."

(2) It extends to the whole of Mysore.

(3) It shall come into force on the 1st day of July 1911.

But the provisions of Section 8 shall come into force only in such courts and from such dates as may be notified by Government in the official Gazette.

Repeal of Act XI of 1865.

2. (*a*) *From and after that date, Act XI of 1865 as applied to Mysore by the Notification of the Government of India in the Foreign Department, No. 31—I. J., dated the 28th January 1880, shall be repealed.*

Amendment of the Mysore Civil Courts Regulation.

(*b*) The enactment referred to in Schedule II is amended to the extent specified therein.

Construction of references to Act XI of 1865.

(*c*) Any enactment or document referring to act XI of 1865 shall, so far as may be, be construed to refer to this Regulation or to the corresponding portion thereof.

Savings.

3. Nothing in this Regulation shall be construed to affect—

(*a*) any proceedings before or after decree in any suit instituted before the commencement of this Regulation; or

(*b*) any local or special law other than the Code of Civil Procedure.

Cognizance of suits by Courts of Small Causes.

4. All suits of the classes specified in Schedule I, *in which no relief is claimed in respect of immovable property and* of which the value does not exceed such sum not exceeding Rs. 500 as may be fixed in each case by the Government in this behalf, shall be cognizable by a Court of Small Causes; and no other suits shall be so cognizable. Provided that the Government may at any time add to or vary the schedule by a notification published in the official Gazette.

Exclusive jurisdiction of Courts of Small Causes.

5. Save as expressly provided by this Regulation or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

Return of plaints in suits involving questions of title to immovable property.

6. (1) Notwithstanding anything in the foregoing portion of this Regulation, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immovable property, the Court may, at any stage of the proceedings, return the plaint to be presented to a Court having jurisdiction to determine the title.

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of the Code of Civil Procedure *regarding the return of plaints* and make such order with respect to costs as it deems just, and the Court shall, for the purposes of the *Mysore Limitation Regulation*, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

Non-suiting in certain cases.

7. In every case in which satisfactory proof shall not be given entitling either the plaintiff or the defendant to judgment, a Court of Small Causes shall have power to non-suit the plaintiff, *subject to such orders as to costs as the court may in each case think fit*: provided that a plaintiff who has been non-suited under this section may, subject to the law of limitation, being a fresh suit on the same cause of action.

Trial by composite court.

8. In all suits where the amount claimed shall exceed *fifty* rupees, it shall be lawful for the plaintiff or the defendant to require the suit to be tried by a composite court, on his depositing such costs and furnishing

such security and giving such notice as may be determined by the court, in accordance with rules to be framed in this behalf by the Chief Court.

When such an application has been made and allowed, the case shall be heard by a court composed of the Judge of the Court in which the suit has been instituted, another Judge of a Civil Court not superior in rank to such Judge or, where there is no such Judge present at the place, a Magistrate to be deputed by the Magistrate of the district, and two jurors to be selected in accordance with rules to be framed in this behalf by the Chief Court.

The Judge of the Court in which the suit has been filed shall preside at the trial and shall have a casting vote whenever the members are equally divided in opinion; and judgment shall be delivered according to the opinion of a majority of the members of the composite court.

The rules to be framed by the Chief Court under this section shall be subject to the previous sanction of Government.

Appeals from certain orders of Courts of Small Causes.

9. Where an order specified in section 104, *clause* (*1*) (*h*), of the Code of Civil Procedure, is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

Revision of decrees and orders of Courts of Small Causes.

10. The Chief Court, for the purpose of satisfying itself *as to the correctness, legality or propriety of* a decree or order made in any case decided by a Court of Small Causes, may call for the case and pass such order with respect thereto as it thinks fit.

Finality of decrees and orders.

11. Save as provided by this Regulation, a decree or order made under the foregoing provisions of this Regulation by a Court of Small Causes shall be final.

Application of Regulation and Code to court invested with the jurisdiction of a Court of Small Causes as to two courts.

12. A court invested with the jurisdiction of a Court of Small Causes, with respect to the exercise of that jurisdiction, and the same court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Regulation and the Code of Civil Procedure, be deemed to be different courts.

Provided that when, in exercise of the jurisdiction of a Court of Small Causes, a court invested with that jurisdiction sends a decree for execution to itself as a court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, *it shall not be necessary, unless the court otherwise directs, to send the documents prescribed by the Code of Civil Procedure in the case of transfer of decrees for execution from one court to another.*

Continuance of proceedings of abolished courts.

13. (1) Where a Court of Small Causes or a court invested with the jurisdiction of a Court of Small Causes has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the court had not ceased to have jurisdiction, might have been had therein, may be had in the court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(2) Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure, as extended to Courts of Small Causes, or in any other enactment for the time being in force.

SCHEDULE I.

Suits cognizable by Courts of Small Causes.

(*See section 4.*)

(1) A suit for money lent;
(2) A suit for money by or against a surety;
(3) A suit for the price of goods sold;
(4) A suit *for money* on a contract for work and labour;
(5) A suit *for money* on a contract of hiring and service;
(6) A suit for rent when there is an express agreement to pay;
(7) A suit for payment for board *or* lodging;

(8) A suit for money received by defendant for plaintiff's use;
(9) A suit for money paid to defendant by mistake or money overpaid;
(10) A suit for money paid or goods delivered at defendant's request;
(11) A suit for damages for breach of a contract of sale of goods;
(12) A suit for money deposited;
(13) A suit for recovery of specific movable property pledged or deposited with the defendant, or its value.

SCHEDULE II.

Amendment of the Mysore Civil Courts Regulation, I of 1883.

Section 3.—*The word "four" shall be substituted for the word "three" and the words "4thly, the Court of Small Causes" shall be inserted after the words "3rdly, the Court of the Munsiff."*

Section 4 (*a*).—*The words "and of the Courts of Small Causes" shall be inserted after the word "Munsiffs."*

Section 5.—*The words "or of a Court of Small Causes" shall be inserted after the word "Munsiff."*

Section 10 *A.*—*After Section* 10, *the following new section shall be added, namely*:—

"10 *A. The jurisdiction of a Court of Small Causes shall be regulated in accordance with the law relating to such Courts for the time being in force in Mysore.*"

Section 19.—*The conjunction "or" occurring after the words "Subordinate Judge" shall be omitted and the words "or a Judge of a Court of Small Causes" shall be inserted after the word "Munsiff."*

Section 21.—*The word "and" occurring before the word "Munsiffs" shall be omitted and the words "and Judges of Courts of Small Causes" shall be inserted after the said word.*

Leter No. 1295, dated the 28th February 1911, from Mr. P. B. Warburton, I. C. S., First Assistant to the Resident in Mysore, to the Dewan of Mysore.

Serial No. 9.

I am directed to acknowledge the receipt of Mr. Balasundaram Iyer's letter No. 619—Pol., dated the 5th—7th January 1911, forwarding for the sanction of the Government of India, a draft Bill which the Durbar propose to enact to consolidate and amend the law relating to Courts of Small Causes in Mysore.

2. In reply, I am to state that the Governor-General in Council has accorded his concent to the draft Bill on the understanding that he retains over it the power and authority which vests in him by virtue of Article 19 of the Instrument of Transfer.

D. O. No. 1296, *dated 28th February* 1911, *from Col. Daly, Resident in Mysore, to Mr. T. Ananda Row, B.A., C.I.E., Dewan of Mysore.*

Serial No. 10.

You will observe from Mr. Warburton's official letter No. 1295 of to-day's date, that the Governor-General in Council has accorded his consent to the draft Bill which the Durbar propose to enact to consolidate and amend the law relating to Courts of Small Causes in Mysore.

2. I would, however, mention, for the information of the Durbar, that it has been suggested that the provisions as to "Composite Courts" in Section 8 of the draft Bill are extremely complicated when the value of the subject matter of the suit is considered, and indicate some misapprehension of the proper functions of a jury. Though section 100 of the County Courts Act of England, 1888, is quoted as the authority for the establishment of this Court, the provisions of that Act do not appear to justify the Court which the Durbar propose in the draft Bill. The English Act provides for trials in certain cases with the aid of juries to determine questions of fact only, while the provisions of the proposed Regulation provide for the two "jurors" being judges of law as well as of fact, a procedure which seems to be anomalous.

No. J. 3469—Legis. 9-09, dated 20th June 1911.

Serial No. 11.

Order.—Ordered that the Bill to consolidate and amend the law relating to Courts of Small Causes in Mysore, which received the assent of His Highness the Maharaja on the 19th June 1911 be published for general information as Regulation No. VIII of 1911.

REGULATION No. VIII OF 1911.

(Received the assent of His Highness the Maharaja on the 19th day of June 1911.)

A Regulation to consolidate and amend the Law relating to Courts of Small Causes in Mysore.

Whereas it is expedient to consolidate and amend the law relating to Courts of Small Causes in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Title, extent and commencement.

1. (1) This Regulation may be called "The Mysore Small Cause Courts Regulation, 1911."

(2) It extends to the whole of Mysore.

(3) It shall come into force on the 1st day of July 1911.

But the provisions of section 8 shall come into force only in such courts and from such dates as may be notified by Government in the official Gazette.

Repeal of Act XI of 1865.

2. (*a*) From and after that date, Act XI of 1865 as applied to Mysore by the Notification of the Government of India in the Foreign Department, No. 31—I. J., dated the 28th January 1880, shall be repealed.

Amendment of the Mysore Civil Courts Regulation.

(*b*) The enactment referred to in Schedule II is amended to the extent specified therein.

Construction of references to Act XI of 1865.

(*c*) Any enactment or document referring to Act XI of 1865 shall, so far as may be, constructed to refer to this Regulation or to the corresponding portion thereof.

Savings.

3. Nothing in this Regulation shall be construed to affect—

(*a*) any proceedings before or after decree in any suit instituted before the commencement of this Regulation; or

(*b*) any local or any special law other than the Code of Civil Procedure.

Cognizance of suits by Courts of Small Causes.

4. All suits of the classes specified in Schedule I in which no relief is claimed in respect of immovable property and of which the value does not exceed such sum not exceeding Rs. 500 as may be fixed in each case by the Government in this behalf, shall be cognizable by a Court of Small Causes; and no other suits shall be so cognizable. Provided that the Government may at any time add to or vary the schedule by notification published in the official Gazette.

Exclusive jurisdiction of Courts of Small Causes.

5. Save as expressly provided by this Regulation or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

Return of plaints in suits involving questions of title to immovable property.

6. (1) Notwithstanding anything in the foregoing portion of this Regulation, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immovable property, the Court may, at any stage of the proceedings, return the plaint to be presented to a Court having jurisdiction to determine the title.

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of the Code of Civil Procedure regarding the return of plaints and make such order with respect to costs as it deems just, and the court shall, for the purposes of the Mysore Limitation Regulation, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

Non-suiting in certain cases.

7. In every case in which satisfactory proof shall not be given entitling either the plaintiff or the defendant to judgment, a Court of Small Causes shall have power to non-suit the plaintiff, subject to such orders as to costs as the court may in each case think fit: provided that a plaintiff who has been non-suited under this section may, subject to the law of limitation, bring a fresh suit on the same cause of action.

Trial by composite court.

8. In all suits where the amount claimed shall exceed fifty rupees, it shall be lawful for the plaintiff or the defendant to require the suit to be tried by a composite court, on his depositing such costs and furnishing

such security and giving such notice as may be determined by the court, in accordance with rules to be framed in this behalf by the Chief Court.

Where such an application has been made and allowed, the case shall be heard by a court composed of the Judge before whom the suit has been instituted and three jurors to be selected in accordance with rules to be framed in this behalf by the Chief Court.

The Judge shall settle what are the questions of law and what the questions of fact arising in the case, and he shall have the sole power to decide the questions of law. He shall preside at the trial and shall have a casting vote whenever the members are equally divided in opinion, and judgment shall be delivered in accordance with the opinion of the majority of the members of the composite court on all questions of fact.

The rules to be framed by the Chief Court under this section shall be subject to the previous sanction of Government.

Appeals from certain orders of Courts of Small Causes.

9. Where an order specified in section 104, clause (1) (*h*), of the Code of Civil Procedure, is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

Revision of decrees and orders of Courts of Small Causes.

10. The Chief Court, for the purpose of satisfying itself as to the correctness, legality or propriety of a decree or order made in any case decided by a Court of Small Causes, may call for the case and pass such order with respect thereto as it thinks fit.

Finality of decrees and orders.

11. Save as provided by this Regulation, a decree or order made under the foregoing provisions of this Regulation by a Court of Small Causes shall be final.

Application of Regulation and Code to Court invested with jurisdiction of a Court of Small Causes as to two Courts.

12. A court invested with the jurisdiction of a Court of Small Causes, with respect to the exercise of that jurisdiction, and the same court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Regulation and the Code of Civil Procedure, be deemed to be different Courts.

Provided that when, in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, it shall not be necessary, unless the court otherwise directs, to send the documents prescribed by the Code of Civil Procedure in the case of transfer of decrees for execution form one court to another.

Continuance of proceedings of abolished Courts.

13. (1) Where a Court of Small Causes or a court invested with the jurisdiction of a Court of Small Causes has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(2) Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure, as extended to Courts of Small Causes, or in any other enactment for the time being in force.

SCHEDULE I.

Suits cognizable by Courts of Small Causes.

(*See section 4.*)

(1) A suit for money lent;
(2) A suit for money by or against a surety;
(3) A suit for the price of goods sold;
(4) A suit for money on a contract for work and labour;
(5) A suit for money on a contract of hiring and service;
(6) A suit for rent when there is an express agreement to pay;
(7) A suit for payment for board or lodging;
(8) A suit for money received by defendant for plaintiff's use;
(9) A suit for money paid to defendant by mistake or money overpaid;
(10) A suit for money paid or goods delivered at defendant's request;

(11) A suit for damages for breach of a contract of sale of goods;
(12) A suit for money deposited;
(13) A suit for recovery of specific movable property pledged or deposited with the defendant, or its value.

SCHEDULE II.

AMENDMENT OF THE MYSORE CIVIL COURTS REGULATION, I OF 1883.

Section 3.—The word "four" shall be substituted for the word "three" and the words "4thly, the Court of Small Causes" shall be inserted after the words "3rdly, the Court of the Munsiff."

Section 4 (*a*).—The words "and of the Courts of Small Causes" shall be inserted after the word "Munsiffs."

Section 5—The words "or of a Court of Small Causes" shall be inserted after the word "Munsiff."

Section 10A.—After Section 10, the following new section shall be added, namely:—"10A. The jurisdiction of a Court of Small Causes shall be regulated in accordance with the law relating to such courts for the time being in force in Mysore."

Section 19.—The conjunction "or" occurring after the words "Subordinate Judge," shall be omitted and the words "or a Judge of a Court of Small Causes" shall be inserted after the word "Munsiff."

Section 21.—The word "and" occurring before the word "Munsiffs" shall be omitted and the words "and Judges of Courts of Small Causes" shall be inserted after the said word.

T. ANANDA ROW,
Dewan.

Letter Pol. No. 11, dated the 4th July 1911, from the Secretary to Government, General and Revenue Departments, to the First Assistant to the Hon'ble the Resident in Mysore, Bangalore.

Serial No. 12.

I am directed to forward herewith a copy of Regulation, VIII of 1911, a Regulation to consolidate and amend the law relating to Courts of Small Causes in Mysore, with 9 spare copies, and to request that a copy may, as usual, be forwarded to His Highness the Nizam's Government.